

Appendix T

Comments on the Supplemental Draft EIS and Responses

TABLE T-1

Written Correspondence Received on the Supplemental Draft EIS

Comment Letter	Agency/Name	Date of Letter	FERC Docket Accession Number
FEDERAL AGENCIES (FA)			
S-FA1	NOAA National Marine Fisheries Service, Protected Resources Division	5/1/13	20130507-0008
S-FA2	U.S. Army Corps of Engineers, Regulatory Division	5/7/13	20130509-5039
S-FA3	U.S. Environmental Protection Agency	5/15/13	20130516-5017
S-FA4	U.S. Department of the Interior	5/16/13	20130516-5090
S-FA5	U.S. Department of Homeland Security, U.S. Coast Guard	2/24/2014	20140305-4002
STATE AGENCIES (SA)			
S-SA1	State of Maine Department of Environmental Protection	2/4/2014	20140210-0017
NATIVE AMERICAN TRIBES (NA)			
S-NA1	Edward Basset, Passamaquoddy Tribe	5/3/13	20130503-5134
S-NA2	Robert Godfrey, Save Passamaquoddy Bay	5/13/13	20130513-5040
S-NA3	Robert Godfrey, Save Passamaquoddy Bay	5/15/13	20130516-5009
S-NA4	Tribal Historic Preservation Office, Passamaquoddy Tribe	5/16/13	20130516-5067
S-NA5	Robert Godfrey, Save Passamaquoddy Bay	5/17/13	20130517-5005
S-NA6	Robert Godfrey, Save Passamaquoddy Bay	5/17/13	20130520-5007
S-NA7	Robert Godfrey, Save Passamaquoddy Bay	5/18/13	20130520-5010
S-NA8	Dunkiel Saunders Elliott Raubvogel & Hand PLLC on behalf of Save Passamaquoddy Bay-Canada	5/20/13	20130520-5194
S-NA9	J.E.S. Venart on behalf of Three Nations Alliance	5/24/13	20130524-5097
S-NA10	Dunkiel Saunders Elliott Raubvogel & Hand PLLC on behalf of Save Passamaquoddy Bay-Canada	5/24/13	20130524-5099
S-NA11	Robert Godfrey, Save Passamaquoddy Bay	5/24/13	20130524-5114
S-NA12	J.E.S. Venart on behalf of Three Nations Alliance	5/28/13	20130528-5066
S-NA13	Robert Godfrey, Save Passamaquoddy Bay	6/12/13	20130612-5085
S-NA14	Robert Godfrey, Save Passamaquoddy Bay	6/14/13	20130614-5128
S-NA15	Linda Cross Godfrey, Save Passamaquoddy Bay	6/20/13	20130620-5037
S-NA16	Linda Cross Godfrey, Save Passamaquoddy Bay	6/20/13	20130620-5038
S-NA17	Linda Cross Godfrey, Save Passamaquoddy Bay	6/20/13	20130620-5039
S-NA18	Robert Godfrey, Save Passamaquoddy Bay	6/21/13	20130621-5016
S-NA19	Robert Godfrey, Save Passamaquoddy Bay	7/2/2013	20130702-5036
S-NA-20	Robert Godfrey, Save Passamaquoddy Bay	7/9/2013	20130709-5032
S-NA21	Robert Godfrey, Save Passamaquoddy Bay	7/23/2013	20130723-5094
S-NA22	Robert Godfrey, Save Passamaquoddy Bay	8/30/2013	20130830-5194
S-NA23	Robert Godfrey, Save Passamaquoddy Bay	9/17/2013	20130917-5022
S-NA24	Robert Godfrey, Save Passamaquoddy Bay	9/18/2013	20130918-5017
S-NA25	Robert Godfrey, Save Passamaquoddy Bay	9/23/2013	20130923-5093
S-NA26	Robert Godfrey, Save Passamaquoddy Bay	9/25/2013	20130925-5095
S-NA27	Robert Godfrey, Save Passamaquoddy Bay	9/26/2013	20130926-5008
S-NA28	Robert Godfrey, Save Passamaquoddy Bay	9/27/2013	20130927-5013
S-NA29	Robert Godfrey, Save Passamaquoddy Bay	9/30/2013	20130930-5075
S-NA30	J.E.S. Venart on behalf of Three Nations Alliance	10/3/2013	20131003-5124
S-NA31	Robert Godfrey, Save Passamaquoddy Bay	10/4/2013	20131004-5095
S-NA32	Robert Godfrey, Save Passamaquoddy Bay	10/15/2013	20131015-5373
S-NA33	Robert Godfrey, Save Passamaquoddy Bay	10/17/2013	20131017-5018
S-NA34	Robert Godfrey, Save Passamaquoddy Bay	10/29/2013	20131029-5119
S-NA35	Robert Godfrey, Save Passamaquoddy Bay	11/1/2013	20131101-5190
S-NA36	Robert Godfrey, Save Passamaquoddy Bay	11/12/2013	20131118-5161
S-NA37	Robert Godfrey, Save Passamaquoddy Bay	11/25/2013	20131125-5145
S-NA38	Robert Godfrey, Save Passamaquoddy Bay	11/26/2013	20131126-5129

TABLE T-1

Written Correspondence Received on the Supplemental Draft EIS

Comment Letter	Agency/Name	Date of Letter	FERC Docket Accession Number
S-NA39	Robert Godfrey, Save Passamaquoddy Bay	12/2/2013	20131202-5129
S-NA40	Robert Godfrey, Save Passamaquoddy Bay	12/18/2013	20131218-5019
S-NA41	Robert Godfrey, Save Passamaquoddy Bay	12/19/2013	20131219-5025
S-NA42	Robert Godfrey, Save Passamaquoddy Bay	12/20/2013	20131220-5003
S-NA43	Linda Cross Godfrey, Save Passamaquoddy Bay	12/27/2013	20131227-5008
S-NA44	Robert Godfrey, Save Passamaquoddy Bay	12/27/2013	20131227-5115
S-NA45	Robert Godfrey, Save Passamaquoddy Bay	1/13/2014	20140113-5061
S-NA46	Robert Godfrey, Save Passamaquoddy Bay	1/31/2014	20140131-5032
S-NA47	Robert Godfrey, Save Passamaquoddy Bay	1/31/2014	20140131-5414
S-NA48	Robert Godfrey, Save Passamaquoddy Bay	2/5/2014	20140205-5009
S-NA49	Robert Godfrey, Save Passamaquoddy Bay	2/5/2014	20140204-5068
S-NA50	Robert Godfrey, Save Passamaquoddy Bay	2/5/2014	20140205-5113
S-NA51	Robert Godfrey, Save Passamaquoddy Bay	2/11/2014	20140211-5025
S-NA52	Robert Godfrey, Save Passamaquoddy Bay	2/14/2014	20140214-5138
S-NA53	Robert Godfrey, Save Passamaquoddy Bay	2/18/2014	20140218-5025
S-NA54	Robert Godfrey, Save Passamaquoddy Bay	2/18/2014	20140218-5026
S-NA55	Robert Godfrey, Save Passamaquoddy Bay	2/19/2014	20140219-5018
S-NA56	Robert Godfrey, Save Passamaquoddy Bay	2/20/2014	20140220-5012
S-NA57	Robert Godfrey, Save Passamaquoddy Bay	2/28/2014	20140228-5165
S-NA58	Robert Godfrey, Save Passamaquoddy Bay	2/28/2014	20140228-5204
LOCAL AGENCIES & GOVERNMENTS (LA)			
S-LA1	Town of Saint Andrews, New Brunswick, Canada	5/15/13	20130520-5150
COMPANIES AND ORGANIZATIONS (CO)			
S-CO1	Roosevelt Campobello International Park Commission	4/10/13	20130410-5100
S-CO2	Roosevelt Campobello International Park Commission	4/10/13	20130410-5098
S-CO3	Fundy Bay Keeper, Conservation Council of New Brunswick	5/5/13	20130516-5093
S-CO4	K&L Gates, LLP on behalf of Province of New Brunswick	5/17/13	20130517-5065
S-CO5	Vaughn McIntyre Consulting	5/18/13	20130520-5136
S-CO6	Huntsman Marine Science Centre, New Brunswick	5/17/13	20130520-5143
S-CO7	Nature Trust of New Brunswick	5/12/13	20130520-5145
S-CO8	Friends of Head Harbour Lightstation	5/14/13	20130520-5149
S-CO9	K&L Gates, LLP on behalf of Province of New Brunswick	5/20/13	20130520-5176
S-CO10	Gary Doer, Ambassador, Canadian Embassy	5/17/13	20130517-5139
INDIVIDUALS (IND)			
S-IND1	Ronna M. Pasha	4/10/13	20130416-0008
S-IND2	Brian W. Flynn	5/6/13	20130506-5028
S-IND3	Richard and Katherine Berry, and Paul and Suzanne Crawford	5/9/13	20130513-5054
S-IND4	Carl and Heather Ross	5/9/13	20130515-0020
S-IND5	Sarah and Paul Strickland	5/17/13	20130520-5005
S-IND6	Susan Lambert	5/20/13	20130520-5131
S-IND7	Brian W. Flynn	8/2/2013	20130802-5127
S-IND8	Ronald S. Rosenfeld	10/1/2013	20131007-5168
S-IND9	Ronald S. Rosenfeld	1/30/2014	20140131-5026

FEDERAL AGENCIES

S-FA1 NOAA National Marine Fisheries Service, Protected Resources Division

20130507-0008 FERC PDF (Unofficial) 05/07/2013

FILED
SECRETARY OF THE
COMMISSION
2013 MAY - 7 A 9 10
FEDERAL ENERGY
REGULATORY COMMISSION

ORIGINAL S-FA1

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

MAY - 1 2013

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, D.C. 20426

Re: Downeast LNG Project: Supplemental Draft Environmental Impact Statement. (Docket Nos. CP07-52-000; CP07-53-000; CP07-53-001)


Dear Secretary Bose:

We (the National Marine Fisheries Service (NMFS)), Northeast Region, Protected Resources Division has received your Supplemental Draft Environmental Impact Statement (SDEIS) dated March 2013, and provide the following comments. We are responsible for completing the Endangered Species Act (ESA) section 7 consultation between our agencies on this project.

The ESA section 7 consultation between our agencies on the Downeast LNG Project is being facilitated by on-going discussions with the Applicant. Several concerns have arisen during those discussions regarding the effects of their proposed action on fish and marine mammals protected under the Endangered Species Act (ESA) of 1973 (et seq.). Issues such as ship-whale encounters (strikes), hydroacoustics, and sedimentation have been or are being resolved through our ongoing discussions with the Applicant and have resulted in the identification of measures which could be incorporated as permit conditions. Most recently, during a conference call with Downeast staff in February 2013, we discussed the potential effects of the construction and operations of the proposed LNG terminal. Specifically, we discussed the pier construction and the deleterious effects of unmitigated pile driving on listed species, particularly Atlantic sturgeon. We proposed options for underwater sound mitigation that would reduce the ensonified area so as to allow for a zone of passage past the construction area. We also asked Downeast to conduct hydroacoustic modeling to illustrate the reduced sound field once a suitable mitigation strategy was developed, and to provide us with their findings prior to resubmitting an application to you.

As of April 2013, Downeast is completing hydroacoustic modeling to estimate the effectiveness of the mitigation measures that we discussed. Once we have determined that the conditions will provide for the necessary zone of passage, we expect the applicant will submit a revised permit application to you that will include our agreed upon list of conditions including the general permit conditions mentioned above to address ship strike and other potential impacts to listed species, and also the specific list of mitigations measures proposed to reduce the ensonified area. Upon receipt of the new application and your review of it changes, please send us a new written request for ESA section 7 consultation based upon the modified project specifications and the list of conditions. In order for us to concur with a not likely to adversely affect determination, it is

S-FA1-1



S-FA1-1 Downeast has agreed to adopt NOAA Fisheries conditions and minimization measures regarding ship traffic, noise mitigation, post project reporting, and reporting of listed species encounters. Details on these measures are outlined in the attachment to our letter of June 12, 2013 to the Assistant Regional Administrator, NOAA Fisheries Protected Resources Division, which can be viewed on eLibrary.

S-FA1


important to note in your letter that Downeast has accepted and will implement the list of conditions and mitigation measures.

Finally, as a general technical comment, we note that as part of the Waterway Suitability Assessment, found in section 4.12.7.5 of the SDEIS, the LNG carrier route is outlined. "While no deep draft vessel routing is currently mandatory for the proposed transit area, Downeast proposes LNG carriers enroute to its proposed terminal enter the area via the Grand Manan Channel only." An optional transit route via the Bay of Fundy (BOF) shipping lanes with vessels operating within the BOF Traffic Separation Scheme is not addressed in the SDEIS. However, Downeast's Revised Biological Assessment of June 2012 outlines the option for LNG vessels servicing the proposed terminal to transit the Grand Manan Channel or the Bay of Fundy. Further, "...it is left up to the Captain to choose the route based on visibility, wind, tide cycle, and other considerations". We support allowing vessel Captains to select their transit routes based on environmental conditions, as well as the reported presence of listed species along each of the two routes.

S-FA1-2

Please contact Max Tritt ((207) 866-3756 or max.tritt@noaa.gov) at our Maine Field Station for any questions regarding the effects of this project to listed species, or these comments.

Sincerely,


Mary A. Culligan
Assistant Regional Administrator
for Protected Resources

S-FA1-2 Comment noted.

S-FA2



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 VIRGINIA ROAD
CONCORD, MASSACHUSETTS 01742-2751

Regulatory Division
CENAE-R-51

May 7, 2013

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

RE: FERC Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001; Downeast LNG Project; Robbinston, Maine

Dear Ms. Bose:

This is in response to your request for comment on the March 2013 FERC Supplemental Draft Environmental Impact Statement ("SDEIS") for the proposed project, the development of a liquid natural gas ("LNG") receiving terminal pier near the confluence of Passamaquoddy Bay and the St. Croix River at Robbinston, Maine and associated upland processing/storage facilities and a send out pipeline.

The Corps appreciates your consideration of our 2007 comments on the administrative drafts of the DEIS and the 2009 comments on the DEIS and we continue to hope that the final EIS will satisfy our own NEPA obligations. Since the SDEIS focuses almost exclusively on reliability and safety analyses and contains no new information relating to natural resource impacts, the Corps offers no review comments.

However, the Corps does wish to update our 2009 DEIS comments as they relate to compensatory mitigation for indirect and direct impacts to aquatic resources. In 2009 we indicated that national guidance on compensatory mitigation was evolving (refer to comments on Sections 4.4.1.3 and 4.4.2.4). That guidance has since evolved and may be found at: http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title33/33cfr332_main_02.tpl And following that, the Corps of Engineers New England District revised our New England Mitigation Guidance: <http://www.nae.usace.army.mil/Portals/74/docs/regulatory/Mitigation/CompensatoryMitigationGuidance.pdf> In addition, the Maine Dept. of Environmental Protection and the Corps have since developed an In Lieu Fee program that offers developers a relatively new means of providing compensatory mitigation for unavoidable impacts to wetland resources: http://www.maine.gov/dep/land/nrpa/ILF_and_NRCP/MNRCP/

S-FA2-1


S-FA2-1 Comment noted. We recommend in section 4.4.1.2 of the EIS that Downeast should continue consultation with the COE, EPA, and the Maine DIFW and DEP to finalize its wetland mitigation and compensation plan.

S-FA2

In summary, new guidance is available nationally and within the New England District that will likely redirect and increase the applicant's compensatory mitigation responsibilities. Whereas in the past only the Maine DEP had mitigation ratios, now the Corps has ratios, many of which are higher than the DEP's. Guidance restricting when the Corps may accept preservation as compensatory mitigation may affect the applicant's current proposal. Finally, temporary wetland impacts (e.g. from temporary fill/mats), short and long-term conversion of wetland cover types, and other indirect impacts must now be addressed as part of the overall mitigation package. This is particularly germane to pipeline or electrical transmission corridor construction. Should the project ultimately move forward, the Corps will work with the applicant and the interagency review team to determine an appropriate level of compensatory mitigation and what form it should take (In Lieu Fee, wetland restoration, creation, enhancement, preservation, or a mix).

If you have any questions concerning this matter, please contact Jay Clement of my staff at 207-623-8367 at our Manchester, Maine Project Office. Thank you again for the opportunity to comment.

Sincerely,


Frank J. Del Giudice
Chief, Permits & Enforcement Section
Regulatory Division

Copies Furnished:
Alan Moore – USCG
Tim Timmerman – USEPA
Wende Mahaney – USFWS
Chris Boelke – NMFS
James Beyer – ME DEP
George Willant – Tetra Tech, Inc.

S-FA3



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

OFFICE OF THE
REGIONAL ADMINISTRATOR

May 15, 2013

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room 1A
Washington, DC 20426

RE: Downeast LNG Supplemental Draft Environmental Impact Statement, Washington County, Maine (OPE/DG2E/Gas 1 Downeast LNG, Inc. Downeast Pipeline, LLC. Docket Nos. CP07-52-000, CP07-53-000, CP07-53-001 (CEQ # 20130082)

Dear Secretary Bose:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA), and Section 309 of the Clean Air Act, we have reviewed the Supplemental Draft Environmental Impact Statement (SDEIS) for Downeast LNG, Inc.'s (Downeast) proposed Liquefied Natural Gas (LNG) terminal, pipeline and related facilities in Washington County, Maine.

The SDEIS provides additional detail and analysis related to reliability and safety issues for the project. The SDEIS was prepared in cooperation with the United States Department of Transportation and also includes conclusions regarding waterway suitability derived from input provided by the United States Coast Guard. We have no comments on the revised safety and reliability analysis provided in the SDEIS. We do, however, request that the FEIS provide a detailed discussion of project modifications that would be required (and associated potential impacts) should the proposed Downeast LNG import terminal be modified at any point in the future into an export facility. Changes in market conditions have resulted in similar project modifications at other facilities nationwide. Therefore we believe the FEIS would be more informative if it included a discussion of the environmental review process and permits/authorizations that would be associated with those types of modifications.

We have rated the SDEIS "LO-1" (Lack of Objections--Adequate) in accordance with EPA's national rating system, a description of which is enclosed. My staff is ready to continue to participate on the cooperating agency team to provide additional input, as necessary, to help

S-FA3-1

S-FA3-2

S-FA3-1 Thank you for your comment.

S-FA3-2 Downeast is proposing only to construct and operate an LNG import terminal. If at some future date Downeast were to contemplate adding LNG export capability to the terminal, Downeast would need to file a new application for those export facilities with the FERC. Any project modifications that would be required to add export capability, and associated impacts, would be identified and analyzed at that time. It would be speculative to include a discussion of LNG export in the current EIS.

S-FA3

FERC develop the FEIS for the project. Please feel free to contact me or Timothy Timmermann of the Office of Environmental Review at 617/918-1025 if you wish to discuss these comments further.

Sincerely,


H. Curtis Spalding
Regional Administrator

Enclosure

S-FA4



United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
15 State Street – Suite 400
Boston, Massachusetts 02109-3572



May 16, 2013

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ER 13/0192

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

RE: COMMENTS
Supplemental Draft Environmental Impact Statement
Downeast LNG Project, FERC No. CP07-52-000, CP07-53-000, CP07-53-001
Washington County, Maine

Dear Ms. Bose:

The U.S. Department of the Interior (Department) has reviewed the March 28, 2013, Notice of Availability of the Supplemental Draft Environmental Impact Statement (EIS) for the Downeast LNG Project, FERC No. CP07-52-000, CP07-53-000, and CP07-53-001, Washington County, Maine. The Department submitted comments on July 2, 2009, and it is our understanding that those comments will be addressed in Final Environmental Impact Statement.

The Supplemental DEIS outlines a plan for the terminal operator to develop an Emergency Response Plan (ERP) and details coordinating procedures with state and local emergency response agencies. Tribal emergency response representatives should be included in these coordination efforts, with specific mention made as such in the Supplemental DEIS. There are three specific areas for appropriate inclusion of Tribes in the document text:

- Section 4.12.8 Page 69 - first bullet point
- Section 4.12.8 Page 70 - first bullet point
- Conclusion and Recommendations Pages 72-73 - points number 3 and 4.

If you have any questions or need additional information regarding these comments, please contact Dr. Christina Stringer, Bureau of Indian Affairs, (615) 564-6838 or christina.stringer@bia.gov.

S-FA4-1

S-FA4-1 Section 4.12 has been revised to include tribes.

S-FA4

Thank you for the opportunity to review and comment on this SDEIS. Please contact me at (617) 223-8565 if I can be of further assistance.

Sincerely,



Andrew L. Raddant
Regional Environmental Officer

cc: Service List



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ORIGINAL

S-SA1



PATRICIA W. AHO
COMMISSIONER

FILED
SECRETARY OF THE
COMMISSION
FEDERAL ENERGY
REGULATORY COMMISSION
JAN FEB 10 A 9 15

February 4, 2014

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

RE: Downeast LNG Docket Numbers CP07-52-000, CP07-53-000, CP07-53-001

Dear Secretary Bose:

This is in response to your request for comments from the Maine Department of Environmental Protection (Department) on the Final Environmental Impact Statement (EIS) for the above captioned project. The Department is a cooperating agency in the FERC process. In addition, the Department administers several core laws under the Coastal Zone Management Act, for which a Consistency Determination must be made, and the Department must issue a Water Quality Certification (WQC) for this project in order for it to move forward.

On December 19, 2006, the applicants, Downeast LNG, Inc. and Downeast Pipeline, LLC submitted applications under the *Natural Resources Protection Act*, 38 M.R.S. §§ 480-A to 480-HH (NRPA), *The Site Location of Development Act*, 38 M.R.S. §§ 481-490 (Site Law) and an application for a WQC. The Board of Environmental Protection assumed jurisdiction over these applications and held five days of public hearings, including two evening sessions, from July 16, 2007 to July 20, 2007. At the applicant's request, the applications were withdrawn on November 11, 2007.

The Department supports the goal of a diverse energy supply for Maine. However, the Department is unable to provide specific comments to FERC on the final EIS at this time because the applications were withdrawn prior to the Board of Environmental Protection reaching any conclusions on the proposed project. This should not be taken as an indication of the Department's support or opposition to the proposed project, but is reflective of the fact that we do not have pending applications in order for us to render any decisions on the applicant's proposal. In order for the application process to begin again, the applicant will need to file a new Site Law application, a new NRPA application, and a new WQC application in order to determine consistency with those core laws.

S-SA1-1

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(207) 822-6100 FAX: (207) 822-6101

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769

(207) 764-0477 FAX: (207) 760-3143

STATE AGENCIES

S-SA1 State of Maine Department of Environmental Protection

S-SA1-1 Thank you for your comment. We expect that Downeast would pursue acquisition of all permits and authorizations necessary for construction and operation of its project. We have revised section 1.3 of the EIS as requested.

20140210-0017 FERC PDF (Unofficial) 02/10/2014

Letter to Kimberly D. Bose
(February 4, 2014)
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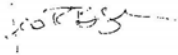
S-SA1

In closing, we would like to note that Section 1.3 of the EIS contains a discussion of the permits and regulatory requirements the project must comply with. In the section on Coastal Zone Management, the State Planning Office is listed as having responsibility for administering the Coastal Zone Management Program in Maine. The State Planning Office was dissolved several years ago by the Maine State Legislature and responsibility for administering the program now rests with the Department of Agriculture, Conservation and Forestry.

S-SA1-1
cont'd

If you have any questions please call me at (207) 446-9026 or e-mail me at
Jim.R.Beyer@maine.gov.

Sincerely,



JAMES R. BEYER
Regional Licensing and Compliance Manager
Division of Land Resource Regulation
Bureau of Land & Water Quality
Eastern Maine Regional Office - Bangor

Cc Patricia Aho, Commissioner
Mark Bergeron, DEP

NATIVE AMERICAN TRIBES

S-NA1 Edward Basset, Passamaquoddy Tribe

20130503-5134 FERC PDF (Unofficial) 5/3/2013 3:24:27 PM

S-NA1

Edward Bassett, Pleasant Point, ME.

As a Passamaquoddy Tribal member and a member of the Pleasant Point Reservation Tribal Council I am very concerned about the proposed route that is planned for the placement of the underground natural gas pipeline. The proposed pipeline route as drawn on the map in Figure 1 of the March 2013 Downeast LNG Project Supplemental Draft Environmental Impact Statement shows the pipeline crossing the St. Croix River and/or being placed in the River just north of the Moosehorn Refuge in Calais, Maine.

The Passamaquoddy Tribe is a federally recognized Indian Tribe and the St. Croix River is in the heart of the tribal ancestral homeland. This river is special to the Passamaquoddy, it has been central to our survival and existence for many thousands of years. At one time it was known as the Passamaquoddy River. Tribal members still use this river and the islands today for fishing and navigation and spiritual purposes.

Tribal members have inherent aboriginal fishing rights in this river and the river has 15 reservation islands which have been set aside for the benefit of the tribe. These islands and fishing rights are reserved and guaranteed by treaty and also recognized in the 1980 Maine Indian Claims Settlement Act and the Maine Implementing Act. The river islands are supposed to be protected by the federal government.

The location of the pipeline in and near the river or under any of the reservation islands will cause serious damage to the ecosystem, disrupt the fishing rights and put at risk the safety of tribal members who navigate and use the river or the islands.

S-NA1-1

The alewife, atlantic salmon, shad and other fish are struggling to maintain their existence in this fragile river ecosystem. Maine has just recognized the importance of the St Croix Alewife and has just this year changed the law to allow Alewife and Blueback Herring free passage to the upper regions of the river. Any construction within this water especially during the annual migration of these fish will seriously harm the fish. Society ought to be working to enhance the fishery rather than damage the fishery. I object strongly to this pipeline being put on, in or under the St. Croix River or any of the Tribal Islands. This river, the fish within it and the St Croix ecosystem has suffered too many abuses over the past centuries.

Due to the negative long term impact this project could have on tribal fishing activity and fishing rights and the negative impact to treaty islands the Tribe should also be given the opportunity to have direct face to face consultation with the LNG Pipeline owners and developers and have the opportunity to register its concerns with the trustees in the federal government as well as the regulatory and government agencies involved in decision making.

Thank You
Edward Bassett
Pleasant Point, Maine

S-NA1-1 The potential impact on ecological resources from construction and operation of the proposed sendout pipeline across the St. Croix River is addressed in the EIS (see sections 4.3 and 4.5). Potential impacts due to reliability and safety of the proposed sendout pipeline is addressed in section 4.12 of the EIS. Consultation with the Passamaquoddy Tribe, including concerns regarding access to sites along Mill Cove, is addressed in section 4.10 of the EIS. We have included a recommendation in section 4.10.4 of the EIS for Downeast to continue consultations with the Passamaquoddy Tribe and other appropriate Indian tribes and Native Americans interested in the project's potential impacts on cultural resources, including access to sites in Mill Cove, and seek resolution of identified project-related impacts.

S-NA2



Save Passamaquoddy Bay

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Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2013 May 13

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Passamaquoddy Tribal Rights in Waterway**

Dear Ms. Bose,

In the "Supplemental Draft Environmental Impact Statement," the US Coast Guard (USCG) requires Downeast LNG to obtain a letter of acceptance from the Passamaquoddy agreeing to Downeast LNG's proposed use of the waterway.

"The applicant must provide written verification to the Coast Guard of collaboration with and acceptance from the Passamaquoddy Nation, ensuring its jurisdictional interests and public safety and security needs associated with this project are adequately met." ("Supplemental Draft Environmental Impact Statement," p67)

The Saint Croix Schoodic Band of Passamaquoddy are based in St. Andrews, New Brunswick, Canada, and have Native rights in the United States.

On 2013 April 19, Saint Croix Schoodic Band of Passamaquoddy Chief Hugh Akagi sent an email, with an attachment, to USCG Port Security Specialist Alan Moore **disapproving** of Downeast LNG use of the waterway (see accompanying files: **02_Akagi_email.pdf** and **03_Akagi_attachment.pdf**).

The Saint Croix Schoodic Band of Passamaquoddy has formally notified the USCG that it disapproves of Downeast LNG's proposed use of the waterway. Therefore, Downeast LNG has failed, and cannot comply with, the Coast Guard jurisdictional and public safety and security requirement.

Very truly,

Robert Godfrey
Researcher & Webmaster

S-NA2-1

S-NA2 Robert Godfrey, Save Passamaquoddy Bay

S-NA2-1 The Coast Guard's LOR provides a list of suggested mitigation measures for responsibly managing the maritime safety and security risks associated with LNG marine traffic. As stated in Section 4.12.7, the measures considered necessary by the Coast Guard for LNG marine traffic may be revised depending on changes in conditions along the waterway. Accordingly, the FEIS recommends that FERC authorization for commencement of service of the facility should be contingent on a determination by the Coast Guard that the list of suggested mitigation measures contained in the LOR, as well as any other measures deemed appropriate by the Coast Guard, have been met. These determinations would be based on the annual reviews of the Waterway Suitability Assessment, which would occur from the time of issuance of the LOR until a facility begins operation.

S-NA2 Robert Godfrey, Save Passamaquoddy Bay (continued)

20130513-5040 FERC PDF (Unofficial) 5/13/2013 12:48:32 AM

S-NA2

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
Service List

20130513-5040 FERC PDF (Unofficial) 5/13/2013 12:48:32 AM

S-NA2

From: "Hugh Akagi" <akagih@nb.aibn.com>
Subject: **Down East LNG . . .**
Date: 2013 April 19 11:22:54 AM EDT
To: <alan.h.moore2@uscg.mil>
1 Attachment, 25.0 KB

Dear sir, I am writing to you to express my concerns that DE-LNG continues to seek use of our territorial waters to promote an industry which we believe will be harmful to our territory, our waters, and a way of life, a balance with nature (an agreement with our Mother Earth, if you will) that has allowed us to survive here over the past 12-15000 years (depending on the research/ history you wish to reference, Bruce Bourque or Tribal legends) enjoying the rich abundance of all that our Mother Earth provides).

Many of our Tribe believe this balance has already been compromised through the arrival of the European culture to our territory and this latest proposal might just be another stake in our hearts for what we value most, our "sacred" land/ waters which help define us. As we struggle for recognition within the country of Canada, as we struggle not to become totally assimilated through the land claim agreement with Maine, we recognize how fragile our existence as Native/ Indigenous Peoples on this planet might be; hence, we see the dangers to our society as well as that of the other culture recognizing the need to resist the lure of jobs and monies which are finite compared to what we need to protect and that includes the future.

I feel I repeat myself so I will include an attachment expressing these concerns when Mr Girdis first addressed our community here in Canada many years ago for our point of view has never changes.

I would ask that my message be delivered to your coast Guard of any other agency which might aid us in killing this beast. I appeared with other Tribal members on a panel during the BEP hearing in Calais to express these concerns and the most powerful statement I heard was when our Elder when she asked if anyone might think they would build a church and attend services on their proposed pier which was to extend well out into our sacred waters requiring incredible security, some of the most industrialized equipment in the world limiting access to both land and waters in that area. I would protest their pier being located where the sun sets for most of the summer meaning we here in Canada would lose our sunset to their constant battery of lights while my relatives on my reserve in Sapayik were being asked to forfeit their sunrise for the proposed Quoddy Bay LNG terminal, the reply came in their request o have my statement struck form their official records.

This is not an industry we can support, the threats and dangers we believe to be real, and the destruction to my culture would be a given.

This is my testimony as Chief of Passamaquoddy Peoples - - - Hugh M. Akagi


[Mr. Girdis.doc \(25.0 KB\)](#)

Subject: In response to the "Newsletter" from Mr. Girdis and Downeast LNG:

Mr. Girdis, your Newsletter has conveniently left out any consultation with the First Nations People who are indigenous to this territory since time immemorial. It may be deemed arrogance, with your arrival in our territory without invitation and with the belief that you see no need to address the concerns of my People; or ignorance in the necessity of such a process to address these issues in this country. Your efforts to ignore First Nations while seeking access and rights within our territory are considered an infringement upon our constitutional rights within the country of Canada and our traditional rights as Native Peoples within our territory.

To see what your proposal would mean to generations yet to come, we need no crystal ball to foresee the future; we need only revisit the past. My People now recognize the dangers of what you would offer as a benefit in bringing industrial activity to this area, on such a grand scale. The promise of jobs and a better life to those impoverished by your standards are just a modern day version of other promises of a "better life" for my people. As in previous encounters with your society, what becomes obvious from your newsletter is the content of what remains unsaid or even worse your ability to "imply" that there will be no danger or problem with *your* vision of *our* future. The section on safety issues has no mention of the numerous accidents throughout the world involving the transportation of natural gas. You would use the word "innocent" to justify your passage through our waters with no mention that the definition of innocent is "**free from moral wrong, not guilty, or free from responsibility for an event yet suffering its consequences**"! (Oxford Concise English Dictionary) This alone should raise warning flags that legal preparation is already in place to protect those who predict eventual problems from their activities.

With all your efforts to convince us to buy into your monetary culture at the expense of our own, the only true guarantee you have to offer is certain destruction. The potential for disaster is real and the consequences of such a disaster unreal. Yet the destruction to a way of life is also very real. The basic freedoms my People once enjoyed were sacrificed to allow industry control over our resources. Our dependence on fishing, as a way of life, would be the first of a number of lifestyles to disappear. Our freedom to travel throughout our territory would become a "**privilege** to cross the border". The very customs that defined us as a People would be denied so that profit could be made to the benefit of others. This is the "project" you would bring to those now living in this territory. They too will lose the basic freedom of movement and privileges, as restrictions will be imposed, over which they will have no say; and that loss will become the legacy for generations to come. To relinquish control is to invite destruction. To buy into your own destruction is a tried and true method of guaranteeing others unlimited access and a path toward the extinction of rights. This is a path my People have walked and we do not wish it upon others. It has taken generations to recover some of what we have lost; it will take many more to revive the culture. Every day the First Nations are being invited to

sign off their treaty rights and to deny their culture in order to take part in this "global economy". What price must we pay? Is it not our very identity as a People?

Yet to come back to the present, I see total irony in the fact that you Mr. Girdis have come to us because we have something you want. Though we may be suffering in economy, though we may be lacking in resources, we still have something you want! Perhaps we are not as "impoverished" as you might have us believe. You need our **consent**! To proceed without this would require a major show of force, perhaps a large sum of money, and/or the threat of exposing yourself as one willing to sacrifice the lifestyle (perhaps the very lives) of others to obtain what you want. This sacrifice would include the further destruction of a Native culture struggling to recover from the ashes of a People once considered near extinction within their territory. The problem, Mr. Girdis, is that you have nothing I want! With all your millions/ billions of dollars, **you have nothing I want**. To consider any offer you might make as a fair trade, to consider any exchange of paper for my consent as a good deal; I need only revisit the past to reply: "No Mr. Girdis, this time there will be **no beads for Manhattan!**"

I have come to realize; however, that you will not accept "no" as an answer. So, I will extend an invitation to you Mr. Girdis to feel welcome to return to our territory when you have something worth bargaining with; when you can offer us something truly beneficial to our world. Perhaps a form of wind or solar energy to relieve the suffering of our planet!

We the Wabanaki (the People of the Dawn) believe there will always be a dawn!

S-NA3



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Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2013 May 16

Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001

Dear Ms. Bose,

The Supplemental Draft Environmental Impact Statement (SDEIS), page 10, contains the following statement:

"Although it is possible to produce damaging overpressures and detonations of unconfined LNG vapor clouds...."

Sandia National Laboratories 2004 report to the DOE contains a reference to research demonstrating conditions under which unconfined LNG vapor explosions are possible¹. However, **elsewhere, including on FERC's website** (*"When LNG is heated and becomes a gas, the gas is not explosive if it is unconfined."*²) **and from the mouths of FERC engineers at public meetings, FERC has previously and consistently falsely claimed that unconfined LNG vapor explosions are impossible.**

S-NA3-1

USDOT PHMSA also makes that false claim or misleading claims (*"Although LNG vapors can explode if ignited within a confined space, such as a building or structure, there is no evidence suggesting that LNG vapor is explosive when ignited in unconfined open areas."*³) **as does the National Association of Fire Marshals** (*"As discussed in the previous section, a flash fire can occur if an LNG vapor cloud is released into the atmosphere and ignited. If ignited in open (unconfined) areas, pure methane is not*

¹ December 2004 Sandia Report, 4.3 Detonation Studies, "U.S. Coastguard China Lake Tests – 1978" [Parnarouskis et al. 1980] [Lind and Witson 1977].

² FERC: For Citizens - LNG Overview > Is LNG explosive?, <http://www.ferc.gov/for-citizens/citizen-guides/lng.asp>

³ "Fire Service Guidance for Participating in LNG Terminal Evaluation, Siting, and Operations," page 6, PDF page 10, http://primis.phmsa.dot.gov/comm/publications/Fire_Service_Guidance_for_LNG_2007-01-31.pdf

S-NA3-1 As discussed in the Section 4.12.2 of the FEIS, it is possible to produce damaging overpressures and detonations of unconfined LNG vapor clouds in very specific circumstances. However, the required combination of initiating events, hydrocarbon concentrations, and vapor-to-air ratios renders the possibility of detonation of unconfined LNG vapors at an LNG plant as unrealistic. Also see response to comment NA4-197.

S-NA3

known to generate damaging overpressures (explode).”⁴ [Since natural gas and LNG are not “pure” methane, and since natural gas — not pure methane — is commonly used as a fuel in the United States, the National Association of Fire Marshals’ statement is misleading, and appears to intentionally do so.]

Applicants and LNG industry members repeat the falsehood to the public — and the DOE posts those false claims on its own website (“*Unconfined LNG vapor cloud detonation has not been demonstrated and unlikely*”⁵).

FERC’s first responsibility is to public safety, and previously has not met this obligation regarding unconfined vapor explosions.

Save Passamaquoddy Bay commends FERC’s unconfined-vapor-explosion recognition in the current SDEIS; however, comprehensive FERC remediation is necessary.

Save Passamaquoddy Bay asks that FERC initiate an effort for comprehensively correcting this error within its own Department and with cooperative agencies, and that FERC publish online and in the Federal Register progress of its remediation.

S-NA3-1
cont’d

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Office of Inspector General
Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
Service List

⁴ Op cit., page 7, PDF page 11,
http://primis.phmsa.dot.gov/comm/publications/Fire_Service_Guidance_for_LNG_2007-01-31.pdf

⁵ LNG Safety Myths and Legends, by Doug Quillen, ChevronTexaco Technology, 2002 May 14-15,
<http://www.natl.doe.gov/publications/proceedings/02/ngt/Quillen.pdf>

S-NA4

Tribal Historic Preservation Office

Passamaquoddy Tribe
PO Box 159
Princeton, Maine 04668
(1)

May 16, 2013

Kimberly Bose
FERC
888 First Street NE
Washington DC

Re: Downeast LNG Docket No. CP07-52-000
Downeast Pipeline CP07-53-000
CP07-53-001

Dear Secretary Bose,

The Passamaquoddy Tribal Historic Preservation Office has reviewed the Downeast LNG application to operate a LNG facility in Washington County, Maine.

The Tribal Historic Preservation Office reviews projects regarding the historic properties and significant religious and cultural properties in accordance with NHPA, NEPA, AIRFA, NAGPRA, ARPA, Executive Order 13007 Indian Sacred Sites, Executive Order 13175 Consultation and Coordination with Indian Tribal Governments, and Executive Order 12898 Environmental Justice.

The Passamaquoddy Tribal history dates back over 12,500 years in this area. The Tribe has a long history of using and living of the resources in the area. The coastline of the Passamaquoddy Bay in the Mill Cove area has been and still is important to the Tribe. Tribal people dig clams in the cove, also continue to fish in the waters there and hunt in the woodlands along the cove.

The Downeast LNG plant location will be based out of Robbinston, Maine in Mill Cove. Within the last 7 years a minor earthquake was centered in Mill Cove causing increased erosion and collapse of partial areas of land along the shoreline. We do not believe enough work or study has been conducted in this area on this subject.

Also located in Mill Cove is a site that is special to the Tribe, known as Pulpit Rock in our language it is known as Motewolon Muhsilepehkok Rock, it is a special gathering place for cultural activities for thousands of years. Even today tribal people walk along the beach to access the site to conduct ceremony. This area is south of the LNG plant but within 1000 feet of the project footprint. The LNG will limit access to the site, because the access site is north of the LNG plant, people normally walk along the shore to the site now with the plant terminal there this will not be allowed.

S-NA4-1

S-NA4-1 Section 4.10.1.3 of the EIS includes discussion of consultations between Downeast and the Passamaquoddy Tribe regarding impact on access to this site.

S-NA4

Tribal Historic Preservation Office

Passamaquoddy Tribe
PO Box 159
Princeton, Maine 04668
(2)

The high fencing vapor barrier that is proposed at the LNG site will degrade the visual quality of the area this would rank as among the highest fencing in the State of Maine. Tourism is a big draw for the area and for the Tribe the tourist dollars help the tribe in its livelihood with sales on crafts. We believe that this project will decrease the amount of visitors to the area.

S-NA4-2

Construction of the jetty and pier would stir up toxins, including mercury, known to exist on the bottom of the waterway in the construction area that would contaminate subsistence fisheries, depleting the health of Tribal individuals who depend on those fisheries. It would also contaminate commercial species, impacting Tribal commercial fishers. It would result in contaminating marine mammals, including whales, porpoises, and seals.

S-NA4-3

The proposed LNG would place all of Passamaquoddy Tribal community (Sipayik) within a federally-defined LNG ship Hazard Zone, presenting a genocide risk.

S-NA4-4

The pier and approximately 4,000-foot-long jetty would impede Tribal use of the waterway, including cultural canoeing events which we conduct each year with numerous people involved.

S-NA4-5

The LNG project contradicts Executive Order 12898 of February 11, 1994 requiring US agencies to practice Environmental Justice. The LNG places an unjust health and financial burden on Tribal people.

S-NA4-6

The THPO Office has a concerns about the route of the pipeline, the proposed route includes the area in and along the St. Croix River. This change in the pipeline will alter the cultural tradition of the tribe, for those who feel that the river is sacred and the continued changes that are proposed will further degrade that connection. It is our understanding that the pipeline will run up the middle of the river and underneath several islands. These islands were set aside in a 1794 Treaty for the Tribe, but there is a dispute over the ownership of the islands in the State. We are also concerned about the migrating fish in the river and the effects of the pipeline on their life pattern. No studies have been done on the effect of the pipeline on vibration levels if it is placed under the river or along the river and the effect on the fish.

S-NA4-7

S-NA4 Tribal Historic Preservation Office, Passamaquoddy Tribe (continued)

S-NA4-2 The potential impact of the project on tourism, including from visual impacts, is addressed in section 4.8.2.4 of the EIS. The visual impact of the proposed vapor fence is also discussed in section 4.7.4.2 of the EIS.

S-NA4-3 Section 4.2.8 of the EIS addressed the potential for toxins to occur in the sediments at the terminal site and the likelihood of re-suspension from the proposed construction and operation.

S-NA4-4 The Zones of Concern discussed in section 4.12.7 are not intended to represent an assured outcome of an intentional LNG carrier breach. This information, along with waterfront community demographics and population density, are used by the Coast Guard to determine realistic and credible public safety and security implications from LNG marine traffic in the port. As with carriage of other regulated cargoes, risks can be mitigated using effective measures to reduce both the vulnerability to and the consequences of a release of LNG from a vessel.

S-NA4-5 Section 4.10.1.3 of the EIS describes consultations between Downeast and the Passamaquoddy Tribe regarding impact on access to Mill Cove and providing an alternative point of access. We have included a recommendation in section 4.10.4 of the EIS for Downeast to continue consultations with the Passamaquoddy Tribe and other appropriate Indian tribes and Native Americans interested in the project's potential impacts on cultural resources, including access to sites in Mill Cove, and seek resolution of identified project-related impacts.

S-NA4-6 We do not believe that the project would violate Executive Order 12898 regarding Environmental Justice. See section 4.8.6 of the EIS.

S-NA4-7 Sections 4.3 and 4.5 of the EIS describe the potential impact on ecological resources, including fisheries, from construction and operation of the proposed sendout pipeline across the St. Croix River.

S-NA4

Tribal Historic Preservation Office

Passamaquoddy Tribe
PO Box 159
Princeton, Maine 04668
(3)

The pipeline does avoid the Moosehorn Federal Lands but the effect of this pipeline traveling so close to this area will alter its pristine nature. This area also has a large number of nesting eagles and other endangered insects and animals.

S-NA4-8

As the THPO for the Passamaquoddy Tribe, this Office does not support this project because of the dangers (list above) and the impact on the traditions of the Passamaquoddy Tribe.

Sincerely:

Donald Soctomah
THPO - Passamaquoddy Tribe
Soctomah@ainop.com

**S-NA4 Tribal Historic Preservation Office, Passamaquoddy Tribe
(continued)**

S-NA4-8 Section 4.7.3.3 of the EIS describes how the pipeline would avoid impacts on the Moosehorn National Wildlife Refuge. Construction near the refuge lands could have temporary impacts due to noise and construction traffic during construction. Section 4.6.2.3 describes the pipeline's potential impact on bald eagles.



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S-NA5

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2013 May 17

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Passamaquoddy Objections**

Dear Ms. Bose,

On 2013 May 16, Passamaquoddy Tribal Historic Preservation Officer Donald Sotomah commented to the docket (Accession No: 20130516-5067), objecting to the Downeast LNG project due to its dangers and to impacts on traditions.

This is the third Passamaquoddy Tribe objection to Downeast LNG: 1) Sipayik (Pleasant Point Reservation) Passamaquoddy Tribal Council member Edward Basset (Accession No. 20130503-5134) filed his objection; 2) Chief Akagi of the St. Croix Schoodic Band of Passamaquoddy in St. Andrews, New Brunswick, Canada, emailed an objection to the US Coast Guard that Save Passamaquoddy Bay subsequently posted to the FERC docket (Accession No. 20130513-5040); 3) and now, the Passamaquoddy Tribal Historic Preservation Office has filed its objection.

Downeast LNG has failed the US Coast Guard requirement to obtain approval from the Passamaquoddy Nation. In fact, Downeast LNG has obtained exactly the opposite: Passamaquoddy Nation objections to the project. FERC should deny Downeast LNG's applications.

S-NA5-1

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
Service List

S-NA5 Robert Godfrey, Save Passamaquoddy Bay

S-NA5-1 See response to comment S-NA2-1.



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S-NA6

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2013 May 17

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Re Thermal Radiation**

Dear Ms. Bose,

Dr. James Venart is preparing a thermal radiation modeling report to be filed to this docket. Health and scheduling reasons may delay the filing until after the May 20 Comment Deadline.

Since previous deadlines in this permitting process have frequently not been strictly enforced, we trust that Dr. Venart's work will be accepted and fully considered.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
Service List

S-NA6-1

S-NA6 Robert Godfrey, Save Passamaquoddy Bay

S-NA6-1 Comment noted. See response to comment letter S-NA9.



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S-NA7

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2013 May 18

Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Re: Supplemental Revised Draft Environmental Impact Statement

Dear Ms. Bose,

This filing demonstrates numerous specific reasons why Downeast LNG fails to meet permitting requirements and why FERC must deny Downeast LNG permits.

FERC Complicity Violates the Public Interest

FERC Commissioners, staff, and legal personnel know very well that the US is not a party to the UN Convention on the Law of the Sea (UNCLOS) that provides treaty members with codified innocent passage. Even the US Coast Guard RADM Charles Michel, Chief, International and Maritime Law, publicly stated in 2007 that the US has no legal standing to challenge Canada's prohibition¹.

Canada has repeatedly and firmly stated at the highest level, and in these proceedings, that it will use every legal means to prevent LNG transits through Head Harbour Passage.

"The SEIS notes that co-ordination with the Government of Canada will be required to enable the safe and secure movement of LNG tankers through Canadian waters. As was reiterated in our July 7, 2009. letter to the FERC. The waters of Head Harbour Passage are internal waters of Canada by virtue of historic title and are therefore subject to the control and regulation of the Government of Canada. Given that LNG vessels would need to transit through Head Harbour Passage as well as the New Brunswick side of Passamaquoddy Bay. Our position remains that this proposal cannot proceed. Canada will not cooperate in any coordination planning with U.S. authorities; nor will our

S-NA7-1

¹ "U.S. Coast Guard Officer Claims Canadian PM Disregarded President Bush's Request for LNG Tanker Passage," LNG Law Blog, 2007 Dec 12,
http://www.lnglawblog.com/BlogEntry.aspx?_entry=0af699eb-0b81-431b-9150-298b4cef6be1&RSS=true

S-NA7 Robert Godfrey, Save Passamaquoddy Bay

S-NA7-1 See response to comment PM1-6 and NA4-217.

S-NA7

Government curtail the use of Head Harbour Passage and Passamaquoddy Bay in order to accommodate the incursion of LNG tankers.”²

FERC is well aware that there will be no LNG transits to Downeast LNG’s proposed terminal and is wasting US taxpayer funds on permitting that cannot result in the project’s intent; therefore, FERC’s continued permit processing is a violation of the public interest and the public trust.

Save Passamaquoddy Bay again objects to FERC’s complicity in the US Department of State fraudulent claim of innocent passage through Canada’s Head Harbour Passage, and continued vetting of Downeast LNG permits.

US Department of Transportation

US DOT regulations remain inconsistent with the LNG ship vapor dispersion Hazard Zones for an intentional release as defined by Sandia National Laboratories for the Department of Energy. Sandia determined three Hazard Zones extend around LNG ships: Zone 1: 500 meters (0.31 miles); Zone 2: 1,600 meters (0.99 miles); Zone 3: 3,500 meters (2.17 miles). Even though an LNG ship would be docked at the terminal, the DOT vapor dispersion Exclusion Zone ignores these Hazards from the ship, and determines LNG terminal public safety on the lesser hazards.

S-NA7-1
cont’d

S-NA7-2

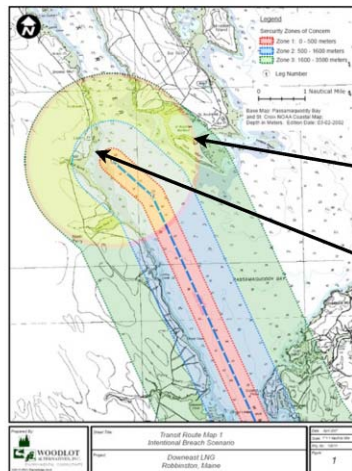


Figure 1. The image at left shows the Sandia National Laboratories’ three Hazard Zones (in red, blue, and green shading) for a transiting LNG ship.

A red-outlined yellow shape, added by Save Passamaquoddy Bay, represents LNG Hazard Zone 3 from an intentional release from an LNG ship at the Downeast LNG dock.

As shown, even Hazard Zone 2 (blue area to northwest of the berthed ship) encompasses private property containing numerous houses on the north side of Mill Cove. Hazard Zone 3 is far larger.

Hazard Zone 3 extends 3,500 meters (2.17 miles) from the docked ship, using the Downeast LNG calculation provided to the US Coast Guard in the FERC Docket, Accession No. 20090106-4001, Figure 25.

² “Protest of Canadian Embassy,” Gary Doer, Ambassador, 2013 May 17, Accession No. 20130517-5139, http://elibrary.ferc.gov/idmws/file_list.asp?document_id=14116057

S-NA7-2 The DOT regulations cover the siting of facilities within the jurisdiction of that agency, which does not include LNG marine traffic. The safety and security risks associated with LNG marine traffic fall under the jurisdiction of the Coast Guard. The results of the Coast Guard analysis is presented in section 4.12.7. The DOT regulations for the siting of onshore facilities are based on design spills with a certain level of risk, while the Coast Guard use of the Hazard Zones are for evaluating safety and security measures to be implemented along the waterway to determine the appropriate level of safeguards necessary to mitigate the safety and security risks to an acceptable level.

S-NA7

An intentional release from an LNG ship at the Downeast LNG berth while offloading could easily overwhelm the DOT Exclusion Zone limits, presenting a far greater public hazard than a release from the offload piping on the pier and jetty.

S-NA7-2
cont'd

Terminal Design & Waterway Suitability

The SDEIS Executive Summary states...

"FERC staff concluded that the preliminary engineering design would be acceptable provided: the mitigation measures relating to the reliability, operability, and safety of the proposed design are addressed by Downeast; and that the facility be subject to the Commission's construction and operational inspection program. FERC staff, with the DOT acting as a cooperating agency, concluded that the site would meet the thermal radiation exclusion zone requirements, but that the vapor dispersion analysis presented by Downeast indicates the site would not meet the requirements of Part 193."

Save Passamaquoddy Bay objects to conditional design approval when DOT thermal radiation or vapor dispersion modeling indicates a violation of the exclusion zone requirements. **Public safety is FERC's and DOT's most rudimentary requirement. Design approval and permitting should not be granted until exclusion zone requirements are fully met.**

S-NA7-3

The Executive Summary also states...

*"Based on its analysis of the LNG carrier transit, the Coast Guard recommended that the waterway along the proposed carrier transit route would be suitable for the type and frequency of LNG marine traffic associated with this proposed project. **contingent on the implementation of measures to responsibly manage the maritime safety and security risks**" [bold emphasis added].*

"Reasonably managing the maritime safety and security risks" includes requiring Downeast LNG to obtain a letter of approval from the Passamaquoddy Nation.

As previously filed to the docket (2013 May 13, Accession No. 20130513-5040), Passamaquoddy Chief Hugh Akagi, Passamaquoddy Tribal Historic Preservation Officer Donald Soctomah, and Passamaquoddy Tribal Council member Edward Basset have already **disapproved** of Downeast LNG's use of the waterway.

Chief Akagi stated, in part...

*"... I see total irony in the fact that you Mr. Girdis have come to us because we have something you want. Though we may be suffering in economy, though we may be lacking in resources, we still have something you want! Perhaps we are not as "impoverished" as you might have us believe. You need our **consent!** To proceed without this would require a major show of force, perhaps a large sum of money, and/or the threat of exposing yourself as one willing to sacrifice the life-style (perhaps the very lives) of others to obtain what you want. This sacrifice*

S-NA7-3 A revised analysis has been provided and discussed in EIS section 4.12.5 that takes into account newly added mitigation measures that would prevent a vapor cloud from extending onto residential properties at Mill Cove. Some of these mitigation measures were made as a result of the potential public impact findings in the supplemental draft EIS.

S-NA7

would include the further destruction of a Native culture struggling to recover from the ashes of a People once considered near extinction within their territory. The problem, Mr. Girdis, is that **you have nothing I want!** With all your millions/ billions of dollars, you have nothing I want. To consider any offer you might make as a fair trade, to consider any exchange of paper for my consent as a good deal; I need only revisit the past to reply: "No Mr. Girdis, this time there will be **no beads for Manhattan!**"³

Since the Coast Guard (USCG) requires Downeast LNG to obtain written approval from the Passamaquoddy Nation, and since disapproval has already been stated, then **Downeast LNG cannot implement measures to responsibly manage the maritime safety and security risks as the USCG requires.**

S-NA7-4

Failed Purpose, Failed Need, and Failed Technical Competence

Downeast LNG's purpose fails, since it cannot receive LNG, as clearly indicated by Canada's prohibition of LNG ships transiting through Canadian waters to the terminal and since Downeast LNG cannot comply with USCG requirements. Since the project cannot obtain LNG, and since there is no need to import incremental LNG into New England, **Downeast LNG fails the public interest requirement.**

S-NA7-5

Downeast LNG president Dean Girdis has stated to the press that the company does not intend to seek State of Maine permit approvals.⁴ Downeast LNG previously went completely through the Maine Department of Environmental Protection process, including the Board of Environmental Protection hearing, and then withdrew in 2007.

*Concerning Downeast LNG's future, on 2013 Mar 22, Girdis says, "We will finish the permitting and see where we are." He admits that the natural gas market is different now, adding, "Maybe we don't do anything."⁵ **He says Downeast LNG is not intending to proceed with state permitting, having withdrawn its applications in 2007.** [Bold emphasis added.]*

Since Downeast LNG does not intend to proceed with Maine permitting, then Downeast LNG does not intend to operate the terminal — **failing the purpose requirement.**

If Downeast LNG hopes to sell its FERC permits to another party, then FERC has no idea of the technical competence of the eventual owner of the pending permits — **failing the technical competence requirement.**

³ "In response to the 'Newsletter' from Mr. Girdis and Downeast LNG," file attachment in email to USCG Port Security Specialist Alan Moore from Chief Hugh Akagi, 2013 April 19.

⁴ "Future of Canaport, Downeast LNG in Question," *The Quoddy Tides*, 2013 Mar 22 http://quoddytides.com/canaport_downeast_lng3-22-13.html

⁵ Ibid.

S-NA7 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA7-4 See response to comment S-NA2-1.

S-NA7-5 We recognize that Canada has concerns relating to LNG vessel passage through its waters, however, the FERC has a legal obligation to continue processing Downeast's application so that all the issues can be properly documented before the Commission makes a decision on the proposal. Downeast would be responsible for obtaining any permits and authorizations necessary for construction and operation of its project. Need is also described in section 1.1 of the EIS and will be considered by the Commission in its determination whether or not to authorize the project.

S-NA7

Since the US has decade's worth of domestic natural gas supply available to New England, there is no long-term feasibility for Downeast LNG — **failing the need requirement.**

S-NA7-5
cont'd

Proposed Facilities and Black Swan Events

The proposed placement of 25-ft-tall and 30-ft-tall vapor barriers, especially in the northwest corner of the terminal property, could establish confined vapor conditions. Although the SDEIS dismisses that possibility, FERC has provided no references to research supporting the dismissal. Since black swan events do occur, and since safety is FERC's and DOT's primary responsibility, Save Passamaquoddy Bay asks that specific research demonstrating confined-vapor-explosion impossibility as a result of vapor fence configuration be cited.

S-NA7-6

4.12.1 — Environmental Analysis (and Design Failure and Environmental Justice)

There is no mention of the mercury and other toxins researchers have demonstrated exist in the project-area seafloor that would be reintroduced into the water column by construction of the jetty and pier. Commercial species', subsistence-fishery species', marine mammals', and other species', including humans' — especially Passamaquoddy Tribal members' — health would be harmed by marine construction.

S-NA7-7

FERC, the Environmental Protection Agency, and the National Marine Fisheries Service have failed their Environmental Justice responsibilities in these proceedings under Executive Order 12898 of February 11, 1994, "Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations."

S-NA7-8

"Section 1–1. Implementation.

"1–101. Agency Responsibilities. To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands."

"Sec. 3–3. Research, Data Collection, and Analysis.

"3–301. Human Health and Environmental Research and Analysis. (a) Environmental human health research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low-income populations and workers who may be exposed to substantial environmental hazards."

S-NA7 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA7-6 See response to comment NA4-197 and NA19-1.

S-NA7-7 Section 4.2.8 of the EIS addressed the potential for toxins, including mercury, to occur in the sediments at the terminal site and the likelihood of re-suspension from the proposed construction and operation.

S-NA7-8 We do not believe that the project would violate Executive Order 12898 regarding Environmental Justice. See section 4.8.6 of the EIS.

S-NA7

“3–302. Human Health and Environmental Data Collection and Analysis. *To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a): (a) each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, or income. To the extent practical and appropriate, Federal agencies shall use this information to determine whether their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;”*

“Sec. 4–4. Subsistence Consumption of Fish and Wildlife.

“4–401. Consumption Patterns. *In order to assist in identifying the need for ensuring protection of populations with differential patterns of subsistence consumption of fish and wildlife, Federal agencies, whenever practicable and appropriate, shall collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. Federal agencies shall communicate to the public the risks of those consumption patterns.”*

“6–604. Scope. *For purposes of this order, Federal agency means any agency on the Working Group, and such other agencies as may be designated by the President, that conducts any Federal program or activity that substantially affects human health or the environment. Independent agencies are requested to comply with the provisions of this order.*

The proposed pipeline appears to go beneath a Passamaquoddy Tribal island without Tribal consent. Tribal Council member Edward Bassett stated...

“The location of the pipeline in and near the river or under any of the reservation islands will cause serious damage to the ecosystem, disrupt the fishing rights and put at risk the safety of tribal members who navigate and use the river or the islands.

“...I object strongly to this pipeline being put on, in or under the St. Croix River or any of the Tribal Islands. This river, the fish within it and the St Croix ecosystem has suffered too many abuses over the past centuries.”⁶

Tribal Historic Preservation Officer Donald Soctomah stated...

“Also located in Mill Cove is a site that is special to the Tribe, known as Pulpit Rock in our language it is known as Motewolon Muhsilepehkok Rock, it is a special gathering place for cultural activities for thousands of years. Even today tribal people walk along the beach to access the site to conduct ceremony. This

⁶ Comment of Edward Bassett in Docket(s)/Project(s) CP07-52-000, CP07-53-000 Submission Date: 5/3/2013, http://elibrary.ferc.gov/dmws/file_list.asp?document_id=14112993

S-NA7-9

S-NA7-9 See response to comments S-NA1-1 and S-NA4-1. See also section 4.10 of the EIS.

S-NA7

area is south of the LNG plant but within 1000 feet of the project footprint. The LNG will limit access to the site, because the access site is north of the LNG plant, people normally walk along the shore to the site now with the plant terminal there this will not be allowed."

S-NA7-9
cont'd

...and...

"The THPO Office has a concerns about the route of the pipeline, the proposed route includes the area in and along the St. Croix River. This change in the pipeline will alter the cultural tradition of the tribe, for those who feel that the river is sacred and the continued changes that are proposed will further degrade that connection. It is our understanding that the pipeline will run up the middle of the river and underneath several islands."

...and...

"As the THPO for the Passamaquoddy Tribe, this Office does not support this project because of the dangers (list above) and the impact on the traditions of the Passamaquoddy Tribe."⁷

The proposed facilities are not designed according to applicable requirements; they violate USDOT thermal radiation and vapor dispersion exclusion zone requirements. Further detailed design would result in changes to the siting considerations, basis of design, operating conditions, and safety system designs considered during the review process.

4.12.2 — Hazards (and Anomalous Conditions: Prescriptive Use Law)

Loss of Containment — SDEIS pg 7

*"However, spills would be contained within the terminal and the cold state of these releases would be greatly limited due to the continuous mixing with the warmer air. **The cold temperatures from the release would not present a hazard to any person outside the terminal.**"* [Bold emphasis added.]

S-NA7-10

While the above statement is technically correct, the public remains at risk due to an anomalous condition. There is prescriptive use of the intertidal zone along the entire terminal property shoreline. Cold temperatures from a release could present a hazard to **members of the public exercising their right to be within the intertidal zone of the terminal property.** The terminal property runs to mean low water. The entire Mill Cove intertidal zone is included in the terminal property.

The general public cannot be restricted by the property owner — the applicant — from using the terminal property intertidal zone at any time due to existence of prescriptive

S-NA7-10 The liquid would be directed to spill containment systems interior to the site and would not be within the intertidal zone. Cold temperatures from LNG vapor also would occur well within the flammable portion closer to the upper flammability limit of the vapor cloud and would not pose a hazard to the public. See response to comment NA4-200.

⁷ "Cultural Resources Comments of the Tribal Historic Preservation Office- Comment of Passamaquoddy Tribe under CP07-52, et. al.," Accession No. 20130516-5067, Tribal Historic Preservation Officer Donald Soctomah, 2013 May 16, http://elibrary.ferc.gov/idmws/file_list.asp?document_id=14115603

S-NA7

use under Maine law. Since public safety is DOT's and FERC's primary duty, ignoring the safety of the public in the terminal intertidal zone is contrary to the public interest.

S-NA7-10
cont'd

Vapor Dispersion — SDEIS pg 8

"An LNG release would form a denser-than-air vapor cloud that would sink to the ground due to the cold temperature of the vapor. As the LNG vapor cloud disperses downwind and mixes with the warm surrounding air, the LNG vapor cloud may become buoyant. However, experimental observations and vapor dispersion modeling indicate the LNG vapor cloud would not typically be warm, or buoyant, enough to lift off from the ground before the LNG vapor cloud becomes too diluted to be flammable." [Bold emphasis added.]

"Methane, the primary component of LNG, is classified as a simple asphyxiate and may pose extreme health hazards, including death, if inhaled in significant quantities within a limited time. Very cold methane vapors may also cause freeze burns. However, the locations of concentrations where cold temperatures and oxygen-deprivation effects could occur are greatly limited due to the continuous mixing with the warmer air surrounding the spill site. Exposure injuries from contact with releases of methane normally represent negligible risks to the public." [Bold emphasis added.]

Since the terminal-property intertidal zone has public prescriptive use under Maine Law, thus the public could be alongside the jetty and storage tank area in that intertidal zone — an anomaly re LNG terminal sitings — an extraordinary hazard to the public exists that would not exist if the terminal were sited in a location not having prescriptive use. Downeast LNG's site selection failed to consider this unnecessary hazard to the public.

S-NA7-11

Overpressures — SDEIS pg 10

"Although it is possible to produce damaging overpressures and detonations of unconfined LNG vapor clouds, the LNG proposed for importation to the Downeast project would have lower ethane and propane concentrations than those that resulted in damaging overpressures and detonations. The substantial amount of initiating explosives needed to create the shock initiation during the limited range of vapor-air concentrations also renders the possibility of detonation of these vapors at an LNG plant as unrealistic." [Bold emphasis added.]

Possible vapor detonation is certainly not unrealistic. LNG sources could change with time; thus, higher concentrations of more explosive content could exist. A black swan event, such as an on-site intentional or unintentional vehicle accident rupturing terminal infrastructure and resulting in LNG release, vehicle fire, and vehicle fuel tank explosion, renders the potential for such an incident as realistic.

S-NA7-12

4.12.3 Technical Review of the Preliminary Engineering Design — SDEIS pg 11

"Operation of the proposed facility poses a potential hazard that could affect the public safety if strict design and operational measures to control potential

S-NA7-11 As discussed in section 4.12.5, during FERC staff consultation with DOT on this issue, DOT indicated that vapor dispersion over the intertidal areas accessed by the public would not be prohibited by Part 193. Also, see response to comment NA4-59.

S-NA7-12 The Downeast LNG import facility would be designed to receive LNG with methane concentrations as low as 87 percent. These compositions are not in the range shown to exhibit overpressures and flame speeds associated with high-order explosions and detonations. In addition, the ignition sources necessary to initiate a high order explosion or detonation for LNG vapors would need to be a high energy explosive charge, which would not be present at an LNG facility. Design measures to prevent or mitigate vehicular impacts would be incorporated into the design and security measures would be in place to mitigate the possibility from an intentional act.

S-NA7

accidents are not applied. The primary concerns are those events that could lead to an LNG spill of sufficient magnitude to create an off-site hazard as discussed in Section 4.12.2. However, it is important to recognize the stringent requirements in place for the design, construction, operation, and maintenance of the facility, as well, as the extensive safety systems proposed to detect and control potential hazards."

Later in this DEIS, it is admitted that Downeast LNG has not met the US DOT-PHMSA vapor dispersion Exclusion Zone requirements. And yet, the document indicates it will not require compliance until some later date.

FERC's position does not comport with the "strict design" and "stringent requirements" for public safety assertions contained in the paragraph quoted above.

Downeast LNG's application is flawed due to its lack of adherence to the vapor dispersion Exclusion Zone.

Did Downeast LNG's hazard and operability review (HAZOP) consider the terminal site's anomalous conditions re 24-hour prescriptive use of the beach that would place the public in harm's way if an incident were to occur at the jetty, pier, or land-side terminal facilities?

Site Security

— SDEIS pg 12

"Site security measures for controlling access to the facility, including security inspections and patrols; response procedures to any breach of security; and liaison with local law enforcement officials;"

— SDEIS pg 14

"In order to minimize the risk of an intentional event, Downeast would provide security fencing, lighting, camera systems, and intrusion detection to deter, monitor, and detect intruders into the facility."

Access to the intertidal zone — including at the proposed marine jetty (pipe trestle) — cannot be restricted for this terminal location. Under Maine law the public has prescriptive use of the entire proposed terminal shoreline intertidal zone, including all of Mill Cove, and the public's presence there cannot be prevented.

— SDEIS pg 15

"Downeast would also have emergency procedures in accordance with 49 CFR 193 and 33 CFR 127. The emergency procedures would provide for protection of personnel and the public as well as the prevention of property damage that may occur as a result of incidents at the facility. Downeast would also be required to develop an emergency response plan (ERP) in accordance with the Energy Policy Act of 2005 (EPA 2005), as discussed further in Section 4.12.8."

S-NA7 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA7-13 See response to comment S-NA7-3.

S-NA7-14 As discussed in section 4.12.8, Downeast would need to prepare an emergency evacuation plan for compliance with 49 CFR § 193.2059. As required by that regulation, this plan would need to be coordinated with appropriate local officials and provide Downeast's plans for responding to emergencies and public evacuation. Responsibility for determining the facilities compliance with 33 CFR 127 would be under the U.S. Coast Guard. If this project is approved, then the Coast Guard would consider at that time what facility control measures would be appropriate to adequately address safety and security considerations.

S-NA7

How would emergency procedures provide protection to the public that has unrestricted use of the entire terminal intertidal zone, including all of Mill Cove?

S-NA7-14
cont'd

4.12.4 Siting Requirements — SDEIS pg 27

"The Commission's regulations under 18 CFR 380.12(o)(14) require Downeast to identify how the proposed design complies with the siting requirements of DOT's regulations in 49 CFR 193, Subpart B. The Part 193 requirements state that an operator or government agency must exercise control over the activities that can occur within an "exclusion zone," defined as the area around an LNG facility that could be exposed to specified levels of thermal radiation or flammable vapor in the event of a release."

S-NA7-15

and

"Part 193.2059, Flammable vapor-gas dispersion protection, requires that each LNG container and LNG transfer system have a dispersion exclusion zone in accordance with Sections 2.2.3.3 and 2.2.3.4 of NFPA 59A (2001)."

and

"Two 42,267,530 gallon (net) full containment LNG storage tanks and associated piping and appurtenances - Parts 193.2057 and 2059 require the establishment of thermal and flammable vapor exclusion zones for LNG tanks. NFPA 59A (2001), section 2.2.3.2 specifies four thermal exclusion zones based on the design spill and the impounding area. NFPA 59A (2001), sections 2.2.3.3 and 2.2.3.4 specify a flammable vapor exclusion zone for the design spill which is determined with section 2.2.3.5."

The SDEIS already indicates elsewhere that Downeast LNG's design **does not comply** with DOT's regulations regarding the vapor dispersion Exclusion Zone.

4.12.5 Siting Analysis (and Prescriptive Use Law and Environmental Justice)

Design Spills

— SDEIS pg 40

"We received comments on Downeast's vapor dispersion exclusion zones extending beyond the shoreline along the eastern property line and over public access routes to intertidal recreation and study areas. The commentor stated that, as Downeast would have no ability to control public access in these areas, the exclusion zones would be in violation of Part 193. After consulting with DOT staff, we conclude that vapor dispersion over the intertidal areas accessed by the public would not be prohibited by Part 193."

S-NA7-16

The conditions at the proposed terminal site are anomalous regarding 49 CFR Part 193. The regulation — and referenced use of NFPA 59A — was designed without considering states with prescriptive use laws. Prescriptive use of the terminal intertidal

S-NA7-15 See response to comment S-NA7-3.

S-NA7-16 As discussed in section 4.12.5, during FERC staff consultation with DOT on this issue, DOT indicated that vapor dispersion over the intertidal areas accessed by the public would not be prohibited by Part 193. Also, see response to comment S-NA7-14.

S-NA7

zone means the public cannot be prevented from being in the intertidal zone immediately beneath or beside the marine jetty, within 280-foot proximity to the LNG storage tanks, or from being anywhere along the terminal shoreline and entire intertidal zone.

There are barriers on the land side of the terminal, designed to protect the public from vapor cloud dispersion and thermal radiation. No such protection is in place on the intertidal zone-side of the property. Even if there were, it is unlikely that such barriers could prevent an LNG vapor cloud or thermal radiation from reaching the public in the intertidal zone.

This is an extraordinary circumstance that, due to security requirements along the intertidal zone, would not be permitted at LNG terminals sited where prescriptive use does not exist.

S-NA7-16
cont'd

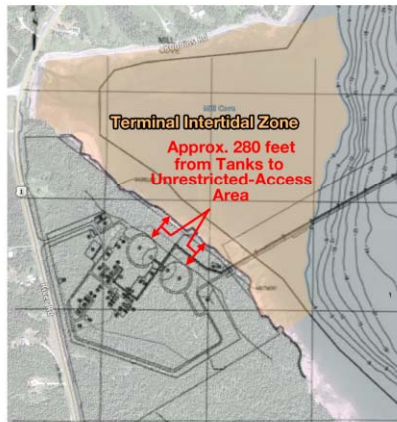


Figure 2. Terminal diagram overlaid onto Google Earth image of Downeast LNG site. Color and text added by Save Passamaquoddy Bay.

Since this issue has not been dealt with previously by FERC, DOT, NFPA, or Congress when establishing LNG terminal safety and security regulations, it is unreasonable to subject the Maine public to hazard exposure that no other terminal site would encounter if being contemporaneously permitted.

Public safety is the DOT's and FERC's paramount responsibility. Downeast LNG's terminal site is defective in its inability to prevent public exposure to extreme nearby hazard, and permits should be disallowed.

S-NA7

— **pg 61**

The second line on the page refers to “Quoddy, Maine.” In actuality, it is the Quoddy Village portion of the City of Eastport.

The first new paragraph reads...

“All deep-draft vessel traffic entering the Passamaquoddy Bay port area initially navigate Canadian waters, and then straddle the international boundary throughout their respective transits. The existing scheme for ensuring traffic control involves the full cooperation of the U.S. and Canada, with vessel movements reported to and controlled by “Fundy Traffic,” a Canadian Vessel Traffic System (VTS) in St. John, New Brunswick. Twenty four-hour advance notification to Fundy Traffic is required for all vessels transiting this area. The National Vessel Movement Center in the U.S. requires a 96-hour advance notice of arrival for those deep draft vessels calling on U.S. ports.”

S-NA7-17

While requiring “full cooperation of the U.S. and Canada,” the SDEIS failed to mention that Canada will not cooperate, as it has indicated on numerous occasions — most recently on 2013 May 17⁸ — and at the highest level of government. Traffic control could not be maintained.

Hazard Zones Associated with the Proposed Route — pg 61

“We received numerous comments from Canadian citizens in opposition to the proposed project and concerns in regard to the project’s potential impacts on water quality; wildlife habitat; threatened and endangered species; tourism; and commercial fishing. The 2009 draft EIS addressed many of these issues. The comments received in response to the 2009 draft EIS in regard to those concerns will be addressed in a final EIS.”

S-NA7-18

Federal Environmental Justice requirements must be observed, especially regarding Passamaquoddy Tribal member subsistence fishing and impacts on local financially disadvantaged populations who consume local commercial fish species.

— **pg 62**

“During the LNG carrier’s transit, Zone 1 would encompass portions of Moose Island on the Maine side and Deer Island on the New Brunswick side. This area presents the narrowest point in the entire transit route and the pilots tend to hug the U.S. side of the dogleg, rather than stay in the middle of the channel, in order to avoid the divergent currents common to this portion of the waterway. Although no major military post or camp is situated along the waterway, Coast Guard Station Eastport, a Search and Rescue and Law Enforcement installation, is located on the shore of Eastport and would fall within Zone 1 and/or 2, depending on the actual course taken by the pilots when navigating the bend off Dog Island. When the carriers transit Head Harbor Passage, the northern most edge of Head

S-NA7-17 The referenced text is a description of the existing scheme of deep-draft vessel traffic control though U.S. and Canadian waters, not a conclusion on whether or how the Government of Canada would participate in LNG carrier traffic control.

S-NA7-18 Environmental Justice is adequately addressed in section 4.8.6 of the EIS. Consultation with Native American groups, including the Passamaquoddy tribe, and evaluation of measures to address impacts on that community is described in section 4.10 of this EIS.

⁸ Canada Ambassador Doer to the FERC docket, Accession No. 20130517-5139

S-NA7

Harbor and shore side neighboring areas on Campobello Island would fall within Zone 1. When the carriers transit Friar Roads and Western Passage, the western edge of Deer Island Point, New Brunswick, would also fall into this zone."

S-NA7-19

The first sentence above should indicate that Zone 1 would encompass residential homes in Eastport and part of a campground on Deer Island, NB, Canada.

The last sentence above should indicate that Zone 1 would encompass part of Wilson's Beach, Campobello Island, NB. Also, homes in Eastport and the campground on Deer Island, NB.

"Zone 2 areas, defined as those where the impact is significant but reduced, include most of Eastport, Kendall Head, and Pleasant Point, Maine. A portion of Route 190, the only vehicle access to and from the City of Eastport, is within Zone 2."

The above should indicate that Zones 2 and 3 engulf all of Sipayik (the Passamaquoddy Pleasant Point Reservation), presenting a genocide hazard.

This section of the SDEIS refers to "West Deer Isle" and "Southern Deer Island." Those proper place names do not exist. Accurate usage would be "west Deer Island" and "south Deer Island." In addition, "Deer Island," not "Deer Isle," is the proper name of the island. "Deer Isle" begs confusion with the Maine island of that name near Stonington.

There is no mention in this section that Hazard Zone 3 would extend onto the Town of St. Andrews, NB. The St. Andrews Blockhouse National Historic Site on the shore west of downtown would fall within that Hazard Zone.

4.12.7.6 Coast Guard Waterway Suitability Report — pg 63

The Coast Guard determined the waterway to be suitable for LNG transits "**provided that the risk mitigation measures defined in the WSR are implemented**" and "**The development, by Downeast, of standard operating parameters** approved by the Coast Guard and **coordinated with the Government of Canada to enable the safe and secure movement of LNG tankers through Canadian and U.S. waters**, taking into account the need for...." The Coast Guard and FERC already know very well that **Canada will not cooperate** and that the Passamaquoddy Nation **disapproves** of Downeast LNG. As recently as 2013 May 17, Canadian Ambassador to the US Gary Doer reiterated that **Canada will not cooperate** with LNG transits, **and will not curtail the use of Head Harbour Passage and Passamaquoddy Bay to accommodate LNG transits. Downeast LNG has already and clearly failed its mitigation requirements.**

S-NA7-20

— pg 64

"Traffic Control – One-way traffic patterns for deep-draft transits will be required and strictly enforced whenever LNG carriers are moving to avoid meeting or passing situations. At the discretion of the attending pilots and in consultation with vessel masters and Fundy Traffic, all vessel transits will be on a first-come, first-served basis, with inbound vessels having priority over outbound;"

S-NA7-19 Section 4.12.5 has been revised to address this comment. Also, see response to comment S-NA4-4. The text of section 4.12.5 has been updated.

S-NA7-20 We recognize there are concerns relating to LNG vessel passage through Canadian waters. However, the FERC has a legal obligation to continue processing Downeast's application so that all the issues can be properly documented before the Commission makes a decision on the proposal. See response to comment NA4-217 and S-NA7-14.

S-NA7

— and pg 65

"Loaded, inbound LNG carriers transiting Head Harbor Passage and Western Passage must maintain ample separation distance and uphold, at a minimum, the safety and security zone parameters. The intent of this limitation is to preclude the possibility of incurring overtaking situations and/or the need for holding at, or anchoring in Friar Roads. Non-LNG vessels may anchor in, or hold at Friar Roads while waiting for a vessel proceeding in the opposite direction to transit Head Harbor Passage or Western Passage; and"

— and pg 66

"Collaboration with all appropriate jurisdictions on a joint, complementary rulemaking to formalize vessel traffic management practices and the establishment and enforcement of comprehensive safety and security zones for the protection of the LNG carrier, alternate waterway users, and area residents, taking into account the need for:"

— and pg 67

"The applicant must provide written verification to the Coast Guard of collaboration with and acceptance from the Passamaquoddy Nation, ensuring its jurisdictional interests and public safety and security needs associated with this project are adequately met."

The USCG already knows the above four requirements are impossible to achieve since **Canada will not cooperate with these stipulations, will not curtail use of the waterway to accommodate LNG transits, and will not participate in any cost-sharing plan;** and since **the Passamaquoddy Nation has already submitted its written disapproval** of Downeast LNG.

S-NA7-21

S-NA7-21 See response to comment S-NA2-1, NA4-217, NA7-20.

SDEIS statements regarding an Emergency Response Plan (ERP) fall short, since the ERP requires Canadian, Province of New Brunswick, and Canadian municipal emergency responder cooperation, and it is clear that those resources will not be forthcoming. Downeast LNG has no ability to provide a viable ERP.

S-NA7-22

S-NA7-22 See response to comment IND1-4 and NA4-217.

4.12.9 Conclusions on Marine Safety — pg 71

"In addition, current operational procedures in use by the Coast Guard in U.S. ports, such as managing ship traffic, coordinating ship speeds, and active ship control in inner and outer harbors, further reduce the potential of LNG spill from accidental causes.

"Potential results from intentional acts and threats identified by marine safety, law enforcement, and intelligence agencies must also be considered. Such scenarios, including attacks with shoulder-fired weapons, explosives, and attacks by aircraft and other boats, could result in spills from LNG carriers visiting the proposed project. Security procedures for both the facility and the LNG carriers could be used to reduce the potential of an LNG spill from intentional causes.

S-NA7

Both the on-shore facility and the LNG carriers would be subject to stringent requirements for security plan development and approval by the Coast Guard under Title 33, CFR, Parts 104 and 105; the MTSa; the ISPS; and SOLAS."

This is a unique problem apart from other USCG operational port procedures due to the international transit and boundary proximity to the US and US communities, and especially due to Canada's prohibition of LNG transits in the Head Harbour waterway and refusal to cooperate. It is already self-evident that the USCG requirements cannot be met.

S-NA7-23

FERC Office of Energy Projects (OEP)

(The following is quoted from the FERC website <http://www.ferc.gov/about/offices/oepp.asp>)

"What We Do"

"OEP has the engineering and environmental expertise to certificate new gas pipeline projects and to authorize and monitor hydroelectric projects. It focuses on:

- 1. Project siting and development;*
- 2. Balancing environmental and other concerns;*
- 3. Ensuring compliance; and*
- 4. **Safeguarding the public."***

Save Passamaquoddy Bay trusts that FERC will honor its obligation to protect the public from the multitude of Downeast LNG application safety and other failings. FERC must deny permits to Downeast LNG.

S-NA7-24

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
Service List

S-NA7 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA7-23 See response to comment IND1-4 and NA4-217.

S-NA7-24 The Commission will evaluate all information when determining whether or not to authorize the proposed project.



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S-NA8

May 20, 2013

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First St. N.E. Room 1A
Washington DC USA 20426

**Re: Comments on FERC Supplemental Environmental Impact Statement,
Downeast LNG Facility, Project Docket Numbers: CP07-52-000, CP07-53-000, and
CP07-53-001**

Dear Secretary Bose,

This document and its attachments are the comments of Intervenor Save
Passamaquoddy Bay-Canada, Inc. ("SPB-CA") on the FERC Supplemental
Environmental Impact Statement.

Introduction.

To reach Robbinston, Maine, LNG tankers must transit down Head Harbour
Passage, up the Western Passage and into Passamaquoddy Bay to Mill Cove – a lengthy
transit that passes by several U.S., Canadian, and Passamaquoddy communities. The
SDEIS directs Downeast LNG to cooperate with Canada in planning its nautical courses,
coordinating timing of tanker passage, and developing emergency response planning to
attempt to mitigate safety and security impacts.

Canada has stated that: (1) it will not allow LNG tankers through its internal
waters of Head Harbour Passage; (2) it will not cooperate with U.S. authorities on
essential safety and security measures that the SDEIS recommends as mitigation
measures to health and safety impacts this project; and (3) it will not curtail its use of
Head Harbour Passage or Passamaquoddy Bay to accommodate the incursion of LNG
tankers. Despite this reality, Downeast LNG has refused to withdraw its permit
applications and the FERC has not stopped processing them.

Given Canada's position, the SDEIS's proposed mitigation measures that rely on
Canada's cooperation are simply not available. Therefore, this SDEIS is insufficient as a
matter of law because its recommended mitigation lacks a rational basis and it fails to
discuss the impacts that will occur without those mitigation measures in place.

Furthermore, given the reality of the world energy market, this project could only
actually go forward as an LNG export terminal – not import. Any such change in project
application would require the NEPA process to start again at the beginning.

S-NA8-1

**S-NA8 Dunkiel Saunders Elliott Raubvogel & Hand PLLC on behalf of Save
Passamaquoddy Bay-Canada**

S-NA8-1 See response to comment S-NA2-1, NA4-217, NA7-20.

S-NA8

I. THE SDEIS MITIGATION DISCUSSION IS LEGALLY INSUFFICIENT.

The SDEIS fails to meet NEPA standards. NEPA requires federal agencies to take a “hard look” at the environmental consequences of their decisions and provide for “broad dissemination of relevant environmental information.” *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350-53 (1989). NEPA also requires a “hard look” and a “detailed discussion” of mitigation measures that can be taken to offset adverse environmental consequences of the proposed action. *Id.*, see also 40 C.F.R. § 1502.16. That discussion must examine mitigation measures “in sufficient detail to ensure there has been a fair evaluation.” *Robertson*, 490 U.S. at 352. A “perfunctory description” is not adequate to satisfy NEPA’s requirements, and a “mere listing” of mitigating measures, without supporting analytical data, is likewise inadequate. *Wilderness Soc’y v. U.S. Bureau of Land Mgmt.*, 822 F. Supp. 2d 933, 940 (D. Ariz. 2011). An EIS must provide easily-accessible detailed information about potential mitigation measures, and the information must be conveyed in plain language so that the general public can “readily understand” the effects of the proposed plan. *High Sierra Hikers Ass’n v. U.S. Dep’t of Interior*, 848 F. Supp. 2d 1036, 1052-54 (N.D. Cal. 2012). Omission of a reasonably complete discussion of possible mitigation measures would undermine the action-forcing function of NEPA and prevent the agency and interested parties from properly evaluating the severity of the adverse effects. *Robertson*, 490 U.S. at 352; *Laguna Greenbelt, Inc. v. U.S. Dep’t of Transp.*, 42 F.3d 517, 527-28 (9th Cir. 1994).

An essential component of a reasonably complete mitigation discussion is an assessment of whether the proposed mitigation measures can be effective. *S. Fork Band Council Of W. Shoshone Of Nevada v. U.S. Dep’t of Interior*, 588 F.3d 718, 726-27 (9th Cir. 2009). Where feasibility of the mitigation measures is not self-evident in an EIS, there is no rational basis to determine that an agency has complied with NEPA. *O’Reilly v. U.S. Army Corps of Engineers*, 477 F.3d 225, 231-34 (5th Cir. 2007).

This SDEIS is not legally sufficient. The SDEIS focuses exclusively on Reliability and Safety Analysis, central to which is the requirement of the cooperation of the sovereign nation of Canada. This cross-border cooperation is one of the primary mitigation measures to reduce adverse safety and security impacts. Yet Canada has opposed this project – without equivocation – since the commencement of this docket in 2006. There is simply no evidence in the record to indicate that this mitigation is feasible or available to the applicant. In fact, all evidence in the record is directly contrary and shows that that proposed mitigation to the otherwise untenable impacts to public health and safety is not available. The SDEIS therefore lacks a rational basis and fails to comply with NEPA. See *O’Reilly v. U.S. Army Corps of Engineers*, 477 F.3d 225, 231-34 (5th Cir. 2007) (holding that there is no rational basis to determine an agency has complied with NEPA where feasibility of the mitigation measures is not self-evident in an EIS).

Furthermore, because the proposed mitigation is not available, the SDEIS must recommend alternative mitigation and/or disclose to the public the environmental impacts of the project without that mitigation. If, for example, this project goes forward without Canadian cooperation, that lack of mitigation could result in an international dispute that

S-NA8-1
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would lead to additional, unknown impacts on the public. NEPA requires that those impacts be examined and disclosed.

A. The SDEIS Proposes to Mitigate Safety Impacts by Means of Canadian Cooperation, but Canada Will Not Allow LNG Tankers to Transit Head Harbour Passage, Cooperate in Planning Coordination with U.S. Authorities, or Curtail its Use of Head Harbour Passage or Passamaquoddy Bay to Accommodate the Incursion of LNG Tankers.

The SDEIS proposes to mitigate impacts to public safety by means of securing the cooperation of the sovereign nation of Canada on a number of fronts. The SDEIS states that LNG tankers navigating Canadian waters would have to comply with the requirements of Transport Canada with respect to certification, safety inspections, and other regulations. SDEIS at 50. The SDEIS recommends the development of standard operating parameters “coordinated with the Government of Canada to enable the safe and secure movement of LNG tankers through Canadian and U.S. waters. . . .” SDEIS at 63. The SDEIS then calls for “collaboration with all appropriate jurisdictions on a joint, complementary rulemaking to formalize vessel traffic management practices and the establishment and enforcement of comprehensive safety and security zones for the protection of the LNG carrier, alternate waterway users, and area residents” SDEIS at 66.

For a “potential navigation safety accident or terrorist attack,” the SDEIS continues, the applicant must develop a Transit Management Plan “that clearly outlines the roles, responsibilities, and specific procedures for the LNG carrier, the LNG terminal, and all federal, state/provincial, and local stakeholders with responsibilities related to the proposed project and/or whose jurisdiction may reasonably be expected to be impacted” by such an accident or terrorist attack. SDEIS at 66. Finally, the SDEIS concludes by requiring Downeast to develop an Emergency Response Plan with appropriate authorities on both sides of the border, to include “at a minimum . . . evacuation routes . . . and locations of permanent sirens and other warning devices. . . .” SDEIS at 69.

All of this coordination and cooperation is the recommended mitigation to offset adverse impacts to public health and safety on both sides of the border. The SDEIS, however, fails to recognize and evaluate the fact that the Canadian government refuses to coordinate in the recommended mitigation. The SDEIS also fails both to offer alternative mitigation measures and to review and disclose the adverse impacts that would arise without the mitigation of Canadian cooperation.

The Government of Canada has stated clearly and repeatedly that the waters of Head Harbour Passage are its internal waters. It has also been firm and steadfast that it will not allow LNG vessels into those waters. Canadian Ambassadors to the United States have written several letters to the Commission Chairman to that extent, repeating and reiterating the Government of Canada’s position respecting those waters. The Prime Minister has stated this position during parliamentary session. There can be no doubt respecting Canada’s position.

S-NA8-1
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Downeast LNG filed applications to construct and operate an LNG import terminal and sendout pipeline in December 2006. The Province of New Brunswick moved to intervene in the docket. The Canadian Government stated its position in this docket soon thereafter, on February 14, 2007. Then-Ambassador Michael Wilson stated in a letter to FERC Chair John Wellinghoff that the “Government of Canada has decided that it will not permit LNG tankers to pass through Head Harbour Passage. . . . The impact of the proposed siting of the terminals, and the potential passage of LNG tankers through the environmentally-sensitive and navigationally-challenging marine and coastal areas of the sovereign Canadian waters of Head Harbour Passage, present risks to the region of southwest New Brunswick and its inhabitants that the Government of Canada cannot accept.” See Attachment 1, Letter of Ambassador Michael Wilson to Joseph T. Kelliher (February 14, 2007).

The Province of New Brunswick formally moved to suspend the FERC proceedings. See Attachment 2, the Province of New Brunswick’s Motion to Suspend Proceedings (February 26, 2007). After the DEIS issued in 2009, New Brunswick Premier Shawn Graham filed detailed and lengthy comments: “As Premier of the Province of New Brunswick, it is my duty to ensure that the citizens, the economy and the environment of my Province are appropriately protected and to minimize and manage unnecessary risks and negative impacts. . . . [T]he impacts on New Brunswick span a wide range of issues and are substantial. . . . [and include] threats to public safety and security and inadequacy of existing resources to address those threats, environmental degradation, and potentially significant economic harm in a region of New Brunswick that is fundamentally dependent on the pristine ecosystem of the Passamaquoddy Bay region for its economic well-being. The impacts are not minimal or insignificant and many cannot be mitigated under any circumstances.” See Attachment 3, Letter of Premier Shawn Graham to Chairman Jon Wellinghoff (July 2, 2009) (emphasis added).

Ambassador Michael Wilson reiterated the position of the Government of Canada in another letter to the Chair of the Commission also in response to the DEIS. See Attachment 4, Letter of Ambassador Michael Wilson to Chairman Jon Wellinghoff (July 7, 2009). The Honorable John Williamson, Member of Parliament, New Brunswick Southwest also penned a letter to Commissioner Wellinghoff. After yet another application to construct an LNG import terminal was filed at FERC by Calais LNG on December 18, 2009, Canada’s new Ambassador to the United States, Gary Doer, wrote another letter to Chairman Jon Wellinghoff on February 3, 2010. See Attachment 5, Letter of Ambassador Gary Doer to Chairman Jon Wellinghoff (February 3, 2010).

Last week, in response to the SDEIS, Ambassador Gary Doer penned a letter to Chairman Jon Wellinghoff stating and reiterating:

The Government of Canada is committed to protecting the area including Head Harbour Passage and Passamaquoddy Bay, widely recognized as a unique and highly productive marine ecosystem” and that “Canada continues to have serious concerns with the proposal to construct an LNG

S-NA8

terminal on the Maine side of Passamaquoddy Bay. These concerns relate to environmental, navigational and safety risks as well as the adverse economic consequences arising from the passage of LNG tankers through Head Harbour Passage, New Brunswick, which the Government of Canada opposes.

The SEIS notes that co-ordination with the Government of Canada will be required to enable the safe and secure movement of LNG tankers through Canadian waters. As was reiterated in our July 7, 2009, letter to the FERC, the waters of Head Harbour Passage are internal waters of Canada by virtue of historic title and are therefore subject to the control and regulation of the Government of Canada. Given that LNG vessels would need to transit through Head Harbour Passage as well as the New Brunswick side of Passamaquoddy Bay, our position remains that this proposal cannot proceed. Canada will not cooperate in any coordination planning with U.S. authorities; nor will our Government curtail the use of Head Harbour Passage and Passamaquoddy Bay in order to accommodate the incursion of LNG tankers.

See Attachment 6, Letter of Ambassador Gary Doer to Chairman Jon Wellinghoff (May 17, 2013) (emphasis added).

Because its proposed mitigation is not available, the SDEIS must recommend alternative mitigation and/or disclose to the public the environmental impacts of the project without that mitigation. If, for example, this project goes forward without Canadian cooperation, that lack of mitigation could result in an international dispute that would lead to additional, unknown impacts on the public. NEPA requires that those impacts be examined and disclosed.

S-NA8-1
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B. Canada's Position is Legally Sound and FERC Should Give Deference to a Sovereign Nation That Will Suffer the Impacts of a Federal Action.

S-NA8-2

The Downeast LNG project would require LNG tankers to transit through Head Harbour Passage – historic and internal waters of Canada. There is no other way to enter into Passamaquoddy Bay and access the proposed LNG import terminal at Mill Cove in Robbinston, Maine. That Head Harbour Passage is internal waters of Canada is well-founded on customary international law, the principles that govern historic waters and Article 10 of the 1982 Law of the Sea Convention. As such, Canada has complete and exclusive power to regulate or prohibit foreign-flag vessels through its internal waters. See Attachment 7, Jon M. Van Dyke, *Canada's Authority to Prohibit Transit of LNG Vessels Through Head Harbour Passage to U.S. Ports*, 14 Ocean & Coastal L.J. 45 2008-2009 & Attachment 8, Rebuttal Testimony of Jon M. Van Dyke, June 29, 2010.

As an alternative argument to its absolute right to its internal waters of Head Harbour Passage, both Head Harbour Passage and the waters in Passamaquoddy Bay adjacent to and west of the line from Calder Head to Joe's Point can be treated by Canada

S-NA8 Dunkiel Saunders Elliott Raubvogel & Hand PLLC on behalf of Save Passamaquoddy Bay-Canada (continued)

S-NA8-2 See response to comment S-NA2-1, NA4-217, NA7-20.

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as an Exclusive Economic Zone (EEZ). Articles 56 and 58 of the Law of the Sea Convention provide that while all states enjoy freedom of navigation in territorial waters of a coastal state, due regard must be given to the right of the coastal state to exploit the resources of an EEZ and the responsibilities of the coastal state to protect the marine environment. Coastal states, therefore, have the right to actively protect their EEZ by placing limitations on navigation rights when necessary to protect their resources and the marine environment. The Downeast LNG project would require Canada to curtail its existing economic activities in the Passamaquoddy Bay region, including use of its fisheries and the environment for tourism, both of which require navigational rights to the waterways. Canada has the right to protect its EEZ and the marine environment by limiting the incursion of LNG tankers. See Attachment 7, Jon M. Van Dyke, *Canada's Authority to Prohibit Transit of LNG Vessels Through Head Harbour Passage to U.S. Ports*, 14 Ocean & Coastal L.J. 45 2008-2009 & Attachment 8, Rebuttal Testimony of Jon M. Van Dyke, June 29, 2010.

The SDEIS ignores Canada's decision not to cooperate with public safety planning and its unequivocal opposition to any LNG vessels in Passamaquoddy Bay without any justification. FERC should give appropriate deference to the views of the sovereign on whose territory these impacts will be felt. Canada has not wavered in its opposition to this Project or in its determination that this project's risks and adverse impacts are too great. The Commission's failure to consider impacts to Canada in line with the views expressed by Canadian authorities represents insensitivity to the foreign policy implications of encroaching on the claims of a sovereign. *C.f. Greenpeace USA v. Stone*, 748 F.Supp. 749 (D.Hawaii 1990) (holding that applying NEPA would encroach on Germany's sovereignty when environmental impacts of proposed action were felt solely on German soil and where German government supported action). The circumstances and geography particular to Downeast's Project distinguish this case from *Greenpeace*, where no shared border or ecosystem impacts existed. *See id.* Here, both American and Canadian ecosystems and local economies would be affected. Moreover – and unlike the situation in *Greenpeace* – the Canadian government is not supportive of the U.S.'s action.

C. The SDEIS Fails to Review the Recent Investments in the Passamaquoddy Bay Region on Both Sides of the Border.

The waters of the Passamaquoddy Bay region are some of the most ecologically significant and important in the world. The economies of this region are wholly dependent upon the environment and its resources – through fishing, whale watching, and ecotourism. The St. Andrews area is considered one of the most important resort areas on the Canadian East Coast and has an economy similar to Camden, Bar Harbor, or the tourist areas of Cape Cod. The proposed development would have serious deleterious effects on these communities and is inappropriate in this area. Canada will not curtail its ferry services, its tourism industry, its fisheries, or put at risk its marine biology, in order to accommodate foreign-flag tankers' passage into Passamaquoddy Bay.

This area has also changed considerably since the application was filed in 2006

S-NA8-2
cont'd

S-NA8-3

S-NA8 Dunkiel Saunders Elliott Raubvogel & Hand PLLC on behalf of Save Passamaquoddy Bay-Canada (continued)

S-NA8-3 Section 4.0 of the EIS describes the environmental consequences of constructing and operating the proposed project, including the issues and concerns raised in the Canadian Study (SENES 2007). The environmental resources described in the EIS are similar for both the U.S. and Canada.

S-NA8

and since comments on the DEIS were submitted in 2009. The Bay of Fundy was recently recognized as one of the two finalists for the “Seven Wonders of the World.” There has been considerable increased investment in ecotourism on both sides of the border. See, e.g., Comments of the Town of St. Andrews (discussing investments of \$900,000 CAD in new Town Market Wharf and \$4,000,000 CAD in new Huntsman Marine Science Center Aquarium).

As stated in prior comments on the DEIS, FERC affirmatively decided to consider impacts to Canada but its review is unacceptably cursory. While the decision whether to extend NEPA extra-territorially is made on a case-by-case basis, *Hirt v. Richardson*, 127 F. Supp.2d 833, 844 (W.D.Mich. 1999), it is arbitrary and capricious to claim to examine impacts yet do so, as in this docket, in a cursory manner. FERC’s failure to consider the impact on communities just over the border, with the same natural resource-based economies, is arbitrary and capricious. See *Hirt*, 127 F. Supp.2d. at 842 (noting that the geographic implications of a proposed federal action may constitute a basis for evaluating all foreseeable environmental consequences, thereby broadening the scope of review when appropriate).

II. **THIS ONLY POTENTIAL USE OF THE PROPOSED PROJECT IS TO EXPORT LNG; AN EXPORT TERMINAL WILL REQUIRE THE NEPA PROCESS TO START OVER.**

This application was filed in December of 2006 – nearly seven years ago. The shift in domestic and international energy markets has been swift and dramatic since then. At the time comments on the draft EIS were taken, in mid-2009, the change was well underway, as was reflected in comments at that time. Now, it is transparent and irrefutable that the only way this project will ever be built is for the purpose of exporting LNG, not importing it. Yet the applicant in this docket forges on without any common-sense regard of the reality of the actual marketplace – to a degree bordering on bad faith. This is a waste of government and taxpayer resources.

This review process should be suspended for any number of reasons, not the least of which is that it is plain that it is really to build an export terminal. This is beyond “significant new circumstances or information relevant to environmental concerns” that might require preparation of an additional SDEIS. 40 C.F.R. § 1502.9(c)(1); *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 374 (1989). FERC cannot simply address these changes in an FEIS. Export facilities have different footprints and different environmental impacts. The purpose and need statement would be entirely different, and under NEPA purpose and need statements are developed after the required scoping period. The public has the right to review and comment on a DEIS prepared in accordance with CEQ and FERC rules. 40 C.F.R. § 1503.1(a)(4). Assuming this terminal is for export rather than import, the DEIS and SDEIS are inadequate, irrelevant, preclude public comment on required information, and therefore deprive the Commission of the benefit of such comment. This process must begin again. 40 C.F.R. § 1502.9(a).

S-NA8 Dunkiel Saunders Elliott Raubvogel & Hand PLLC on behalf of Save Passamaquoddy Bay-Canada (continued)

S-NA8-3
cont'd

S-NA8-4

S-NA8-4 See response to comment S-FA4-1.

S-NA8

Conclusion.

The SDEIS's significant flaws require its complete revision to assess the project's full scope and provide the public with adequate information allowing the meaningful opportunity to comment.

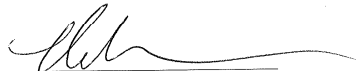
This SDEIS revisits only the reliability and safety review of the proposed action – nothing else. SPB-CA reiterates all of its prior comments and arguments about other shortcomings of the draft EIS that remain despite this SDEIS.

In addition to what is submitted herein and as attachments to this filing, SPB-CA wishes to adopt and incorporate by reference herein the following comments in this docket: Bryan W. Flynn, Vaughn McIntyre Consulting, Town of St. Andrews, Susan Lambert Letter, Huntsman Marine Science Center, Nature Trust of New Brunswick, Friends of Head Harbour Lighthouse, Letter of Donald Soctomah (Tribal Historic Preservation Office) and Fundy Baykeeper.

In light of the incomplete nature of the SEIS, SPB-CA reserves the right to file additional comments in this docket as new information becomes available to SPB-CA and/or is submitted in this docket.

May 20, 2013

By:



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S-NA8 Dunkiel Saunders Elliott Raubvogel & Hand PLLC on behalf of Save Passamaquoddy Bay-Canada (continued)

S-NA9

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Canada

May 24, 2013

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled: May 24, 2013

Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001

Dear Ms. Bose,

I attach comments and data concerning the influence of thermal radiation from tank-top fires supplemental to that provided in my earlier comments of June 15, 2009 and October 29, 2009¹ on the subject and those provided as comment to the FERC study on the suitability of LNGFire3 for use in siting LNG tank facilities of March 6, 2013². These comments are being filed on behalf of Three Nation Alliance, which is comprised of Save Passamaquoddy Bay-Canada, Inc., Save Passamaquoddy Bay-U.S., and Nulankeyutmonen Nkhtahkomikumon.

The work is in the form of LNGFire3 examinations employing actual expected site features and NIST FDS5 3D computer simulations that include the influence of topography, wind, relative humidity, and vapour fences. It includes considerations on the long-time thermal radiation exposure and ignition of wood, the fire exposure to concrete and the size and duration of very large tank fires.

The work concludes that based upon the proposed location of tanks and the proximity to homes and forests along US Route 1 it would be unwise and unsafe to construct the plant as proposed. This is due to the following points;

- Radiation models, both by LNGFire 3 and FDS5, taking into account topography, vapour fences, and wind all indicate that under certain conditions a DELNG tank top fire will expose homes on the western side of Rte. #1 opposite the DELNG facility to radiant exposure greater than 5.05kW/m². The possibility of fire losses of homes cannot be ruled out.
- Radiation models, both by LNGFire 3 and FDS5, taking into account topography, vapour fences, and wind all indicate that under certain conditions a DELNG tank top fire will expose trees and vegetation on the western side of Rte. #1 opposite the DELNG facility to radiant exposure greater than 5.05kW/m². The likelihood of forest fires should not be excluded.

S-NA9-1

¹ Comments of J E S Venart, PEng, PhD on FERC Draft Environmental Impact Statement for Downeast LNG, Docket No. CP07-52 et al. (Jun. 15, 2009), FERC Accession No. 20090707-5023(22040234) and Comments of J E S Venart, PEng, PhD, In Response to Downeast Comments and Report regarding Thermal Radiation and Vapor Dispersion Calculations, Docket No. CP07-52 et al. (Oct. 29, 2009), FERC Accession No. 5066(23041052).

² Comments on Recommended Parameters for Solid Flame Models for Land Based Liquefied Natural Gas Spills. Docket Numbers: AD13-4, CP07-52-000, CP07-53-000, and CP07-53-001, March 6, 2013.

S-NA9 J.E.S. Venart on behalf of Three Nations Alliance

S-NA9-1 As discussed in EIS section 4.12.5, the 1,600 Btu/ft²-hr (5.05 kW/m²) flux level would extend beyond the facility property line onto US Route 1, which, at the time of siting, is not an area we expect to be used for outdoor assembly by groups of 50 or more persons. Consequently, based on our consultation with DOT staff, Downeast's LNG storage tanks would meet the requirements specified by Part 193. Although not a factor in this Part 193 calculations, we note the vapor fences around the facility would reduce the radiant heat beyond the property line, but cannot be accounted for by the LNGFIRE3 model. In addition, predominant literature sources, such as the SFPE Handbook of Fire Protection Engineering, indicate a critical heat flux of 3000 Btu/ft²-hr (10 kW/m²) is needed for fire initiation of various types of wood based on ASTM E2058 fire propagation apparatus tests. Exposures to radiant heat levels of 5.05kW/m² would not be expected to ignite wooden structures or the surrounding forest.

History of storage tank top fires indicates that the more likely failure mode is the storage tank would fail above the liquid line but remain intact below the liquid line due to the insulating qualities of the liquid within the storage tank. As discussed in section 4.12.5, assuming this more credible failure sequence would not significantly change the thermal radiation results. As a further measure, FERC staff has recommended a structural integrity analysis of the full containment tank outer containment be undertaken under ACI 376 assuming a tank top fire. Also see response to comment NA4-198.

The ambient conditions required for thermal radiation exclusion zones are prescribed in 49 CFR 193 and would not include a relative humidity of 0% unless it occurred within the 95% exceedance criteria. As discussed in section 4.12.5, based on consultation with DOT staff, Downeast's thermal radiation exclusion zones for the LNG storage tanks would meet the requirements specified by Part 193.

S-NA9

- FDS5 models of the local tank top radiant loading on the concrete containment due to a LNG tank top fire under certain conditions exceed design criteria and the probability of tank failure ought not be dismissed. Under long term fire conditions as envisaged here other types of tank containment have been known to fail and the fire size escalate. | S-NA9-2
- The use of vapour fences for this facility do not shield houses and vegetation on the western side of Rte. 1 from the thermal radiation from a DELNG tank top fire | S-NA9-3
- Long time radiant exposures of less than 5.05kW/m² have been shown experimentally to cause ignition of wood products. | S-NA9-4
- Tank-top fires of the size modeled are known to continue to burn for many hours, sometimes days and their size make them difficult to contain and control | S-NA9-5

In the work that follows we briefly review the site, some information on tank fires, the fire exposure of concrete, the radiant exposure of wood and other building materials, the models employed and their limitations, the recommendations and conclusions made follow. Supplemental appendices provide details on the input to and output from the models employed.

DELNG Site



Figure 1. View along Rte. 1 looking North toward Mill Cove. Houses on the West side of the DELNG proposed site labeled #1 to #5 (RG).

US Route 1 rises as one proceeds South from an elevation of about 12 m at the commencement of the northern DELNG proposed property boundary to crest at an elevation of about 46 m at its southern extremity,

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S-NA9 J.E.S. Venart on behalf of Three Nations Alliance (continued)

S-NA9-2 See response to comment S-NA9-1.

S-NA9-3 See response to comment S-NA9-1.

S-NA9-4 See response to comment S-NA9-1.

S-NA9-5 See response to comment S-NA9-1.

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Figure 1. There are five homes on the western side of the 12 m wide roadway set-back from the road centre-line between approximately 26 to 87 m on a densely forested (hardwood/conifer mix) rising western slope, Figure 2. The LNG tank bases are proposed at an elevation of 18 m and contained within a graded berm to elevation 23 m. The tank tops would be approximately at elevation 60m. Access to the graded site is proposed to rise to meet US Rte 1 at three locations, Figure 3. There are to be at least two vapour fences³; one approximately 9 m tall on the site perimeter and a further inner one about 6 to 7 m tall spaced approximately 30 m inside the outer fence all as indicated in Figure 4 taken from a NIST FDS5 3D simulation of the section of the DELNG site closest to house #2, Figures 1 and 2.

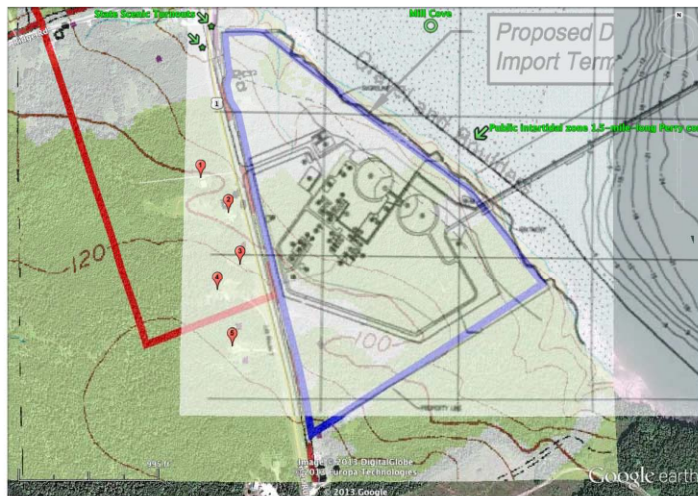


Figure 2. Proposed DELNG site superimposed upon a topographic map and a Google Earth extract showing the site perimeter, blue, and the approximate positioning of the send-out line, red, along with adjacent homes along Rte. 1 (RG).

³ Downeast LNG – Answers to Information Requests by FERC Project No. 1001932.000; Exponent Report, Nov 9 2012.

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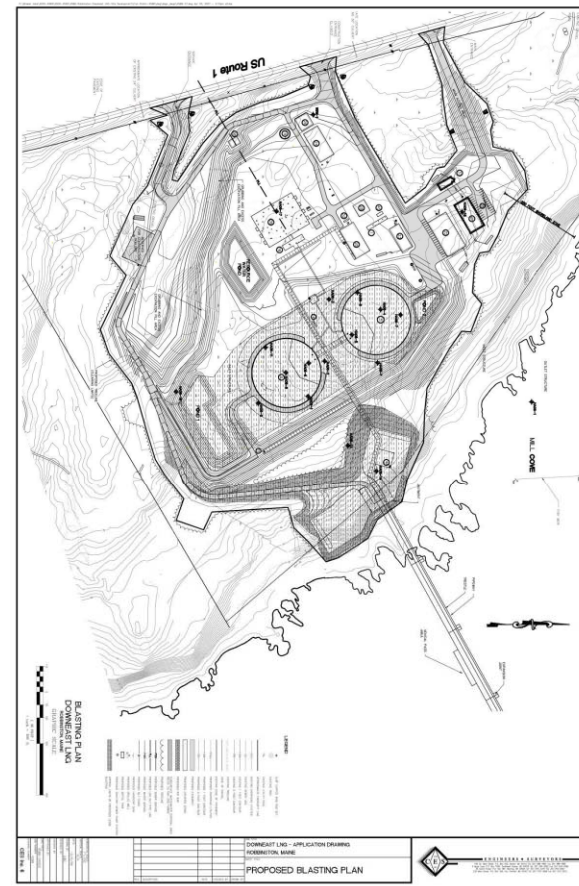


Figure 3. DELNG proposed site layout, elevations and access to Rte. 1.

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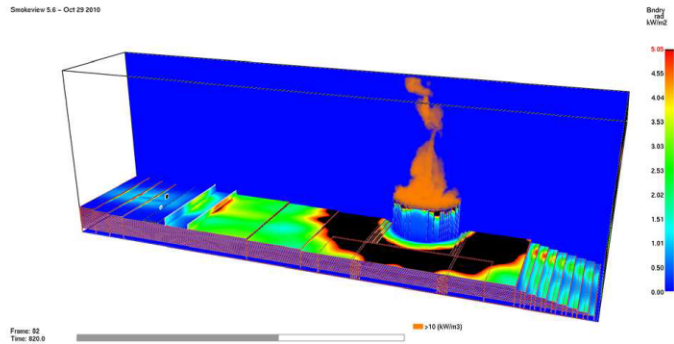


Figure 4. NIST FDS5 3D half section of one DELNG LNG tank and its surrounding topography inclusive of vapour fences with targets representing individuals, homes and forests opposite the facility on the rising western slopes of Rte. #1. The figure indicates that the radiation from a LNG tank top fire will expose a vertical target located 370m to the west of the tank centre line on the slope opposite Rte. #1 to a radiant flux equal to or greater than 5.05kW/m².

Tank Fires

It is well known that the extinguishment of large tank-top fires is extremely difficult and indeed most very large tank fires have had to have been allowed to burn themselves out — a process that may take 20 to 30 hours⁴; indeed even several days. During this period the usual steel wall containment of fuel oil tanks fail and the flaming tank contents are discharged into any containing bund and the fire size and its radiant exposure increased.

Fire Exposure to Concrete

It is doubtful that the tertiary concrete containment of an LNG tank would not also start to fail along with its inner Nickel steel LNG containment can with disastrous consequences since LNG has similar mass burning rates; i.e. 0.11 to 0.16, and its flames a much greater surface emissive power. Under high shear rate winds the flames can engulf the top leeward sides of the tank and subject the high strength concrete to thermal radiation fluxes greater than design codes permit and the concrete may spall as was seen in the bund deterioration and failures surrounding the Buncefield tanks in that accident⁵. The codes NFPA 59A⁶ and EN 1473⁷ indicate the

⁴ Henry Persson, Anders Lönnermark, Tank Fires, Review of fire incidents 1951–2003, BRANDFORSK Project 513-021, SP Report 2004:14.

⁵ The Buncefield Major Incident Investigation Report, The Buncefield Incident 11 December 2005, Volume 1, Crown Copyright 2008.

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permitted values of heat radiation intensity acting on the tank outer surface for concrete and steel. Roetzer and Salvatore⁸ have analyzed and discussed extensively the allowable radiation loading on large high strength concrete LNG tanks. In EN 1473 the permitted heat radiation on concrete is 32 kW/m² the respective value for steel is 15 kW/m². Compliance with these standards determines the required distance between fire and tank surface. In the situation we are concerned with here we are talking about the direct flame engulfment and contact of portions of the tank's concrete walls.

The influence of wind on the flame envelopment and exposure of tanks has been earlier simulated by Venart⁹ using NIST FDS4.

Radiation exposure to wood and building materials

Babrauskas¹⁰ in a comprehensive review of wood ignition noted only one study on long term radiant heating. Shoub and Bender¹¹ used an electric radiant panel operating at an effective black-body face temperature of 273°C and producing a heat flux of 4.3 kW/m² at the center of the specimen, and lower heat fluxes at the edges. While they did not test any whole woods, they tested 13 mm plywood. It ignited after five hours at 254°C. Thus long term exposure to wood, wood products and vegetation at radiant heat fluxes greater than 4.3 kW/m² should be anticipated particularly since such exposure would also alter locally the surrounding micro climates; drying wood and vegetation and reducing humidity. Such processes may result in accidental ignitions and fire escalation.

Vinyl siding distorts and melts at between 70 to 80°C. Ignition temperatures of the vinyl depend upon the fillers used in the PVC but may be as low as 350°C¹².

LNGFire3

LNGFire3¹³ calculates thermal exclusion zones surrounding LNG fires. The model assumes that the flame takes the shape of a cylinder or a parallelepiped, depending on the geometry of the fuel impoundment area, and allows for flame drag and tilt in the presence of wind. Wind speed, relative humidity, and ambient temperature are specified by the user. The model is the only one thus far approved for use in determining safe offset distances for LNG tanks despite there being no data available in the open literature⁹ for this situation.

⁶ National Fire Protection Association, NFPA 59A, Standard for the Production, Storage, and Handling of LNG Liquefied Natural Gas (LNG), 2006 Edition, Quincy, MA.

⁷ EN 1473, Installations and equipment for liquefied natural gas - Design of onshore installations; 1997.

⁸ The Fire Resistance of Concrete Structures of a Typical LNG Tank, Josef Roetzer, Daniele Salvatore, Structural Engineering International 1/2007 Reports, pp 61-67.

⁹ James Venart, LNG Tank-top fires and Radiation Exclusion Zones, AIChE Spring Meeting Chicago, 2011.

¹⁰ Babrauskas, V., Ignition of Wood: A Review of the State of the Art, pp. 71-88 in *Interflam 2001*, Interscience Communications Ltd., London (2001).

¹¹ Shoub, H., and Bender, E. W., Radiant Ignition of Wall Finish Materials in a Small Home (NBS 8172), [U.S.] Natl. Bur. Stand, Washington (1964).

¹² Progressive Foam 18/05/2013, Burning Characteristics; known to soften and melt due to reflected solar radiation.

¹³ LNGFIRE3: A thermal radiation model for LNG fires, GTI-04/0032, March 2004

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Several LNGFire3 simulations were made of the radiant exposure from a tank top fire on a DELNG LNG tank to a variety of targets of various heights and various elevations. A circular tank top fire of 78 m diameter under a selection of wind speeds with several assumed relative humidity conditions was simulated. These results are given in Table 1 Appendix A. The calculations presumed vertical targets at a variety of elevations relative to the tank top elevation consistent with the actual topography.

You will note that under most conditions of 0% relative humidity the distance to the 5.05kW/m² isopleth exceeds 310 m and is thus beyond the DELNG site boundary contrary to the requirements of 49 CFR §193.2057. Although 49 CFR §193.2057 allows use of actual relative humidity their inclusion in this instance is not considered conservative for reasons stated by myself in response to FERC's study on LNGFire3² namely: a lower than experimentally derived fuel regression rate for large fires (0.11 vs 0.14kg/m²/s obtained for the three trials in the Montoir 35 m diameter test series), the neglect of wind drag on tanks greater in height than 1 m, the lack of consideration of the influence of the atmospheric boundary layer, and the choice of surface emissive power for the flame (190 vs over 280kW/m² measured in the Montoir and Sandia trials) and finally also the approximate nature of the calculation of mean beam length. For these reasons the selection of 0% relative humidity would appear prudent.

NIST FDS5

Due to the inability of LNGFire3 to consider topography and the admittedly very approximate nature of its calculations¹⁴ simulations employing NIST FDS5¹⁵ were employed along with its companion visualization package Smokeview¹⁶. The description of the FDS and Smokeview programs is taken from the respective User's Guides.

FDS5 solves numerically a form of the Navier-Stokes equations appropriate for low-speed, thermally-driven flow with an emphasis on smoke and heat transport from fires. The core algorithm is an explicit predictor-corrector scheme, second order accurate in space and time. Turbulence is treated by means of the Smagorinsky form of Large Eddy Simulation (LES). The calculations are thus transient snapshots of the actual physical phenomena.

For most applications, FDS uses a single step chemical reaction whose products are tracked via a two-parameter mixture fraction model. By default, two components of the mixture fraction are explicitly computed. The first is the mass fraction of unburned fuel and the second is the mass fraction of burned fuel (i.e. the mass of the combustion products that originated as fuel).

Radiative heat transfer is included in the model via the solution of the radiation transport equation for a gray gas. The equation is solved using a technique similar to finite volume methods for convective transport, thus the name given to it is the Finite Volume Method (FVM) and uses approximately 100 discrete angles.

¹⁴ FERC 2013, Recommended Parameters for Solid Flame Models for Land Based Liquefied Natural Gas Spills.

¹⁵ K.B. McGrattan, S. Hostikka, and J.E. Floyd, Fire Dynamics Simulator (Version 5), User's Guide, NIST Special Publication 1019-5, National Institute of Standards and Technology, Gaithersburg, Maryland, October 2007.

¹⁶ G.P. Forney, Smokeview (Version 5), A Tool for Visualizing Fire Dynamics Simulation Data, Volume I: User's Guide. NIST Special Publication 1017-1, National Institute of Standards and Technology, Gaithersburg, Maryland, August 2007. i, 3, 7, 148.

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FDS5 approximates the governing equations on a rectilinear mesh. Rectangular obstructions are forced to conform to the underlying mesh. Multiple meshes may be employed.

All solid surfaces are assigned thermal boundary conditions, plus information about the burning behavior of the material. Heat and mass transfer to and from solid surfaces is usually handled with empirical correlations.

Smokeview is an advanced scientific software tool designed to visualize numerical predictions generated by fire models such as by FDS5. FDS and Smokeview are used to model and visualize time-varying fire phenomena.

The FDS Models

A LNG tank top fire from a 78m diameter 42m high LNG tank was simulated under a variety of atmospheric conditions. The base of the tank was placed at an elevation 18m relative to MSL; the tank top was located at elevation 60m. The shore line to abutment rose in a stepwise fashion to the top of the bund surrounding the tank at elevation 24m. From tank centre line to sea shore the distance was 296m; from tank centre line to mid-point of Rte. #1 was 310m. The ground on the western slope of Rte. 1 included two targets at 350 and 370m from tank centre line and at elevations of 30 and 32 m respectively. Two vapour fences were modeled at a base elevation of 28m; an outer one 9m tall located 290m from the tank centre line and a lower one (6m high) located 260m from the tank centre. Both fences were modeled as impervious steel sheet 3mm in thickness with an emissivity appropriate to that of weather galvanized sheet; 0.35.

Details of the boundary conditions as well as material properties are provided in an abridged selection of the various input files provided in Appendix B. Computer run times took several days for grid resolutions of 2 x 2 x 2m; i.e. 1.89 x 10⁶ cells. Computer runs out to 217s to 1730s took between 39 hours to 5.8 days to simulate. Figure 5 illustrates the geometry used to represent the flow and fire model.

In cases of wind an atmospheric boundary layer was allowed to develop for some time before initiating combustion. During the long-time run of vase LNG_tank4et the computation was halted and wind and other conditions changed as noted. The computer run was then restarted until quasi-steady state conditions were re-established before any further data were noted and further alterations made to the input file and the run recommenced. In this way a variety of wind speeds and wind shear conditions could be examined.

Several computer runs were made under dead calm conditions to examine how the code dealt with humidity in the grey gas radiation transport equations. The influence of humidity on radiation intensity was not noted to be as pronounced as with similar calculations employing LNGFire3 no doubt due to the approximations involved in the determination of mean beam length with the latter.

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Smokeview 5.6 - Oct 29 2010

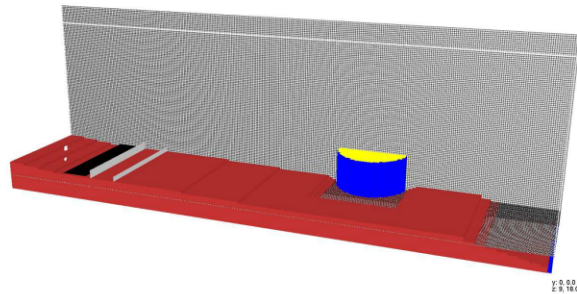


Figure 5: FDS5 LNG Tank4 model details showing tank within an enclosing bund, the vapour fences, Rte. #1, Y and Z grids and the targets on the western slope of Rte. #1.

NIST FDS5 Results

Detailed results are available from the author and only sufficient will be discussed here to illustrate our concerns. Abbreviated and selected output files for two of the computer runs are provided in Appendix B. It should be reemphasised that the simulations are time dependent and thus the data transient. In order to conserve computer resources 'snapshots' at 10 s intervals were usually taken except in the two cases under dead calm wind conditions and a few other instances – here 1 s intervals were utilized in order to illustrate the fire dynamics and its interaction with structures.

In LNG_tank4et the atmospheric boundary (ABL) was allowed to first develop prior to fire initiation in the stable cold (-6.7C) ambient air. Once combustion commenced under specified wind conditions it was allowed to achieve pseudo steady state for usually several 100's of seconds before the run was interrupted, variables changed and the run recommenced.

Table 2 provides a selection of the extracted data from the NIST FDS5 computer simulations. Figures 6 and 7 illustrate the radiant exposure to the top of the concrete tertiary containment for the case LNG_Tank4et. Exposures greater than design occur with surface temperatures in parts being in excess of 600 C. Spalling would be anticipated.

In Table 2 are listed the FDS5 case identification, its associated relative humidity, the wind strength (m/s) and shear factor (PLE), target material and thickness (emissivity 0.96), the time of the observation (time of fire start), the radiant heat flux (kW/m^2) location (target and (tank)), and temperature (target and (tank)). Appendix C provides selected and abridged output files. Greater detail is available from the author.

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Table 2 NIST FDS5 CFD simulations to predict the thermal radiation from large LNG tank top pool fires. Wind in m/s and radiant flux in kW/m^2 . Temperature is in the centre of the target surface plane facing the fire and in brackets the maximum surface temperature of the concrete tank shell where applicable.

Case	RH(%)	Wind (PLE)	Target	Time (s)	Radiant flux	Temp. (C)
LNG_tank4a	20	5.5 (0.25)	thin (steel)	1419 (215)	≥ 5.05 (≥ 32)	234
LNG_tank4ht	0	15 (0.35)	thin (wood)	435 (0)	≥ 5.05 (≥ 12)	167 (200)
LNG_tank4et	various	various	thick	Various (640)	-	-
	30	2.2 (0.1)	"	820	≥ 5.05	48 (>150)
	30	4.5 (0.1)	"	940	≥ 5.05	72 (>200)
	30	4.5 (0.1)	"	1030	≥ 5.05	91
	30	4.5 (0.3)	"	1270	≥ 5.05	109 (>300)
	0	4.5 (0.3)	"	1480	≥ 5.05	113
	0	4.5 (0.3)	"	1690	≥ 5.05	125
	0	4.5 (0.3)	"	1730	≥ 5.05	129 (>600)
LNG_tank4ft	0	dead calm	thin (wood)	217 (0)	≥ 5.05	136
LNG_tank4ft	0	dead calm	thin (wood)	221 (0)	≥ 5.05	137 (>200)
LNG_tank4dt	40	dead calm	thin (wood)	210 (0)	≥ 5.05	131 (>200)

Smokeview 5.6 - Oct 29 2010

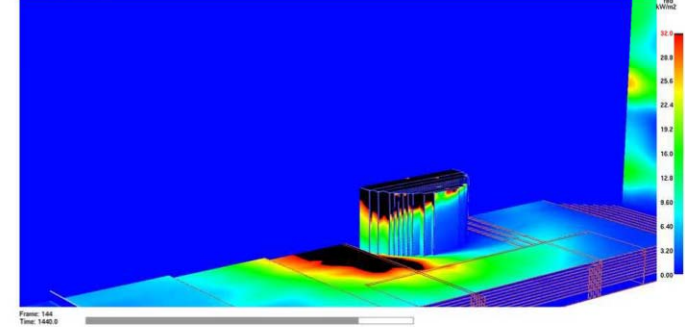


Figure 6. LNG_Tank4et at 1440s illustrating radiant flux in excess of 32kW/m^2 to concrete on top leeward side of tank. Fire commenced at 650s, wind conditions are 4.3m/s and PLE 0.3.

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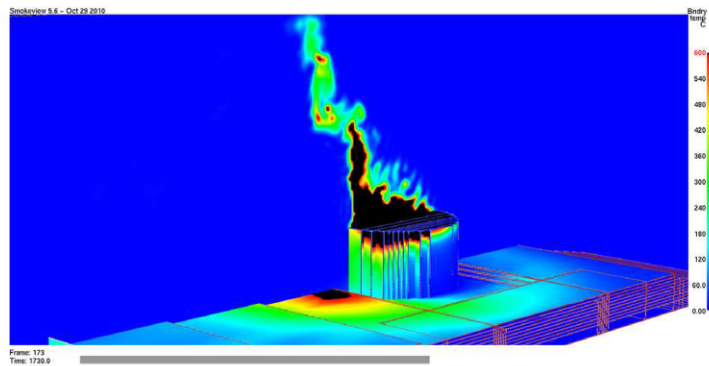


Figure 7. Tank wall temperatures at 1730 s for LNG_tank4et. Wall surface temperatures in excess of 600 C are noted on the leeward sides of the top of the 0.5m thick concrete walls.

Summary

First and foremost for significant periods of time thermal radiation as a result of a LNG tank top fire has been shown to impact properties on the western side of Rte. #1 under a variety of wind and humidity conditions contrary to 49 CFR §193.2057. Second the direct impingement and radiant exposure to the concrete tank exceeds design causes its surface temperature to escalate and spalling, with possible rupture of the concrete, may result in LNG tank containment failure. Such an event could cause the fire to enlarge and its radiant impact to escalate. And third, due to the size of such a fire and its potential for growth, homes and woodlands along Rte. #1 could be further impacted due to accidental ignitions under the local drying conditions of radiant exposure.

I thank you for your consideration of this material.

Yours very truly,



J E S Venart, PEng



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S-NA10

May 24, 2013

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First St. N.E. Room 1A
Washington DC USA 20426

Re: Comments on FERC Supplemental Environmental Impact Statement, Downeast LNG Facility, Project Docket Numbers: CP07-52-000, CP07-53-000, and CP07-53-001

Dear Secretary Bose,

This document supplements the comments of Intervenor Save Passamaquoddy Bay-Canada, Inc. ("SPB-CA") on the FERC Supplemental Environmental Impact Statement. SPB-CA appreciates the Commission's consideration of this filing a few days late.

This filing serves to outline a few ways in which the natural resource-based economy of New Brunswick's Passamaquoddy Bay region would be impacted by the Downeast LNG terminal – especially with regard to competing use of the narrow waterways. Many of these activities cannot be scheduled in advance, making it impossible to schedule tanker deliveries in such a way as not to curtail this use of the waterway. This information specifically supplements the comment of SPB-CA regarding Canada's right, under Articles 56 and 58 of the Law of the Sea Convention, to protect its Exclusive Economic Zone. This filing is not comprehensive.

S-NA10-1

In addition, many of these impacts would be felt similarly on the U.S. side of the border, as both economies rely heavily on the natural resources of the area. Some of these issues were also discussed in the original comment on the Draft EIS by Three Nation Alliance, of which SPB-CA is one member.

I. Aquaculture

Aquaculture is the biggest employer and income generator in the region. Aquaculture now accounts for more than 3,000 full-time jobs in the local area, representing 25% of the entire workforce. Direct employment wages, salaries, and benefits expenditures are estimated at \$47 million. In the related supplies and services industries – such as boat building, net and cage manufacturing, machine shops, etc. – it is estimated that an additional 2,900 jobs have been created. These positions add close to \$46 million to regional payrolls.

On the island of Grand Manan alone, there are approximately 240 direct and indirect full time, year round jobs that are related to the salmon farming industry. Projections indicate that a 30% growth in employment can be realized in the next few years – bringing 73 new jobs and an

S-NA10 Dunkiel Saunders Elliott Raubvogel & Hand PLLC on behalf of Save Passamaquoddy Bay-Canada

S-NA10-1 Potential impacts on local economies, including aquaculture, fishing, whale watching, and ferries, are addressed in section 4.8 of the EIS. Additional information on these existing Canadian economies in the project area as identified in this comment letter, and other letters filed in response to the Supplemental draft EIS, has been added to section 4.8 of the final EIS.



* Also admitted in ME and NH | * Also admitted in DC | * Also admitted in MA, Pat. Reg. 61653 | * Admitted in NY, VT admission pending

S-NA10 Dunkiel Saunders Elliott Raubvogel & Hand PLLC on behalf of Save Passamaquoddy Bay-Canada (continued)

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additional \$1.3 million in wages to the island. Tax revenues to New Brunswick from the salmon farming industry on Grand Manan now exceed \$4.5 million.
(<http://www.aquaculture.ca/files/economic-benefits.php>, May 23, 2013.)

Boats servicing the aquaculture sites use the same waterway as the proposed LNG tanker transit route.

II. Traditional Fisheries

There are over 300 Canadian individual fishing boats and crews licensed to fish in this area. Fishers, while operating within set seasons, are affected by weather and the location of fish stocks and are therefore opportunistic in their use of the waterway and unable to plan in advance exactly when they will be in the proposed LNG tanker route.

Exclusion Zones around transiting LNG tankers will prevent fishermen from fishing. Tankers will travel at slack tide, which is also when the bulk of the fishing occurs. In areas of high current like Head Harbour Passage and the Grand Manan Channel, fishing may only occur at slack tide. This could mean a significant loss of fishing time, therefore reducing the income of Canadian fishermen.

LNG tankers and the tugs needed to bring them to shore are notorious for cutting off lobster gear. When a tug/tanker travels over buoyed gear, their props cut it off or it gets entangled and dragged. The lobster gear is then lost to the fishermen, who lose the income it would have generated. That lost gear also continues to kill lobster and other species indiscriminately.

Lost gear also poses a serious entanglement danger to whales. The tanker route is a very important area for whales, especially in the summer and fall. This is also a problem for crab gear and halibut longline gear. In the past, the Head Harbour area was an important groundfish gillnet fishing grounds. That fishery is not currently being pursued due to the low numbers of cod and Pollock, but it will be pursued again if those species recover.

The noise and lights from tankers will impact the ability of herring weirs to catch fish.

An LNG spill, fire, or explosion on the water would be devastating to the stocks our fishermen rely on for their livelihood.

The following lists the fishing seasons in Canada. Species-specific fishing seasons are also regulated on the U.S. side of the border.

Scallops: January-March in Grand Manan Channel and Passamaquoddy Bay, August-October in Grand Manan Channel, year-round in Grey Zone

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Lobster: Year-round in the Grey Zone, 2nd Tuesday in November-end of June in Grand Manan Channel, 2nd Tuesday in November- January 15 & April -end of June in Passamaquoddy Bay

Herring: Seiners July-November in Grand Manan Channel and Passamaquoddy Bay; Weirs April - October in Passamaquoddy Bay and Grand Manan Channel.

Halibut: April 1-October in Grand Manan Channel and Passamaquoddy Bay.

Jonah Crab: July-September in Grey Zone.

Sea Urchins: Grand Manan Channel and Passamaquoddy Bay.

III. Whale Watching

LNG tanker activity would result in a devastating economic impact on the already fragile industry of whale watching. Currently, the tour boat business must cope with wind, fog, rain, and a fluctuating tourist trade.

The Senes Report¹ found that the LNG tankers, if navigating the Old Sow Whirlpool when moving from Head Harbour Passage to the Western Passage, which requires a 120 degree turn, will have difficulty at maneuvering speed. Concerns clearly show that the waterway at its narrowest point near the elbow is barely wide enough to support safe passage of this type of vessel at normal maneuvering speed in light currents and mild winds. Any measures generate considerable operational limitations. The length of time for the LNG tanker to transit this dangerous area will severely impact the time frame for existing businesses to ply their trade.

Whales inhabit this area and are known to move freely in the areas of concern, including Head Harbour Passage, Grand Manan Channel, and The Wolves.

Whale Watching Tour Boats go to where whales are found, and the location is not determined until they have a report of a whale sighting, frequently when they are leaving the harbour. Thus operators are opportunistic in planning their tours based on the location of the whales. Any disruption of this habitat by large vessels, which would require tour boats to travel to areas farther away, is an added expense in fuel costs and loss of time.

Bookings for reservations are often made well in advance, often up to three to six months. Large charters are, of course, booked well in advance. The possibility of any cancellation due to transit of an LNG tanker either scheduled or unscheduled would be impossible to accommodate.

Communication of transit would be impossible to establish satisfactorily. The whale-watching boats depart from St. Andrews at 9:00 AM and 10:00 AM, and continue throughout the day at 1:00 PM, 4:00 PM, 5:00 PM, and 6:00 PM. The trip out takes approximately 20 – 25

¹ Senes Consultants Limited, A Study of the Anticipated Impacts on Canada from the Development of Liquefied Natural Gas Terminals on Passamaquoddy Bay, Prepared for the Government of Canada, February 2007.

S-NA10

minutes depending on the type of boat, and the return voyage is dependent on distance from port. In addition, whale watching operations from Nova Scotia (Digby Neck, Briar Island, and Tiverton) frequently use the waterway. Grand Manan has four whale watching boats, Campobello has two, and Deer Island has one kayak operation.

In 2013, there will be seven tour boats out of St. Andrews, NB employing approximately twenty or more people. One boat offers diving tours in the Head Harbour, Deer Island, and Campobello area, and various other sites. Two boats offer deep sea fishing tours and often go to The Wolves. Boats also offer tours to Roosevelt Park site. The remaining boats offer whale watching tours including sightings of birds and marine animals.

During the last three years, the tour boat industry has generated revenues of \$54,000 as a result of passenger capacity, \$18,000 for berthing fees for the town of St. Andrews, and \$5.4 M in ticket sales at the wharf for the tour boat operators. The value added income to our communities is extremely significant in this area of high seasonal employment.

All of these businesses would be dramatically affected by any presence of LNG tankers in these areas, as they would be competing for use of the same waterway and precluded from using the waterway when LNG tankers are transiting with their mandatory exclusion zones.

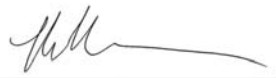
IV. Ferry Traffic

LNG tankers will also disrupt the extensive local ferry service, which connects the island communities of New Brunswick to the mainland. Communities depend on the regularity and precision of timing of the ferry service. These ferry services include the Grand Manan ferry, the Deer Island-Campobello ferry, and the Deer Island-Eastport Ferry.

Ferries also provide service in medial and other emergencies. They are often used in the evenings and outside the scheduled season to transport people, equipment, oil trucks, etc. from Deer Island to Campobello, and occasionally for transport to several smaller Islands in the Bay.

May 24, 2013

By:



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Save Passamaquoddy Bay

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S-NA11

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2013 May 24

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Revised LNG Vapor Dispersion Modeling**

Dear Ms. Bose,

This comment addresses Downeast LNG's Revised Vapor Dispersion Modeling, Accession No. 20130523-5132.

Save Passamaquoddy Bay disagrees with lack of consideration for a full guillotine break of the LNG trestle piping, including destruction of both the gutter beneath the piping and the proposed parallel vapor barriers. Such a scenario could realistically occur from allision with the trestle by another ship transiting the waterway during LNG offloading at the pier.

S-NA11-1

The proposed Downeast LNG pier and trestle extend a great distance into the waterway (3,000 feet longer than the State of Maine allows¹) within proximity of the vessel freeway, leaving the pier and trestle infrastructure unprotected from other marine traffic (a violation of SIGTTO terminal siting best safe practices²).

As FERC previously demonstrated, a vapor cloud from LNG released at the pier or trestle could extend over private property along the north shore of Mill Cove, violating DOT regulation. The above-described allision would result in that same violation, regardless of the 6-ft-tall vapor barriers and Downeast LNG's revised modeling.

For this public safety reason, FERC must deny Downeast LNG permits.

¹ "Maine Department of Conservation responds to FERC's Notice of Intent to Prepare an Environmental Impact Statement for the Downeast LNG Project under PF06-13." Accession No. 20060504-0141(15278951), http://elibrary.ferc.gov/dmws/file_list.asp?document_id=4401317

² "Comment under PF06-13 on Downeast LNG's project violations of SIGTTO best practices standards.," Save Passamaquoddy Bay 3-Nation Alliance, Accession No. 20060309-5002, http://elibrary.ferc.gov/dmws/file_list.asp?document_id=4384390

S-NA11 Robert Godfrey, Save Passamaquoddy Bay

S-NA11-1 Design spills selected for vapor dispersion modeling are discussed in EIS section 4.12.5. Based on our consultation with DOT, Downeast would be using an appropriate design spill for its vapor dispersion exclusion zones. As discussed in section 4.12.7.6, the Coast Guard has recommended that Downeast's ERP address allisions. The Coast Guard also recommended that formalized vessel traffic management practices and safety/security zones be developed as a joint effort between all appropriate jurisdictions with responsibility for waterway traffic. This would address deep-draft vessel tug escorts and assistance services for ships passing the proposed Downeast berth and pipe trestle.

S-NA11

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
Service List

S-NA11 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA12

J E S Venart, PEng
119 Turkey Trail Road
Elgin, NB, E4Z 2K1

May 28, 2013

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled: May 28, 2013

Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001

Dear Ms. Bose,

I attach comments on the Downeast LNG (DELNG) submission to you of May 23, 2013 relative to your request to them for a revised vapour dispersion hazard analysis. These comments are being filed on behalf of Three Nation Alliance, which is comprised of Save Passamaquoddy Bay-Canada, Inc., Save Passamaquoddy Bay-U.S., and Nulankeyutmonen Nkhtahkomikumon.

At the request of DELNG, CH.IV International conducted scoping studies using PHAST (May 20, 2013) and had more detailed FLACS CFD studies conducted by GexCon US (May 18, 2013). The studies examine the extent of dispersion from two locations located on the proposed DELNG jetty trestle. The two studies were carried out utilizing a variety of agreed upon wind speeds from several directions.

In order to contain the possibility of jetting and flashing from a hypothetical 0.42m diameter hole in the 0.91m diameter transfer line two new vapour barrier fences are proposed along the trestle so to flank both the transfer line and the accompanying liquid spill conveying trench required by NFPA59A. The trench concrete substrate is assumed to be of low thermal conductivity in order to reduce vapourization rates. In the FLACS simulations, the thermal conductivity of the substrate was increased by 100% supposedly to account conservatively for heat transfer from the walls of the trench and impoundment.

I have several concerns with these studies:

- The studies presume only a 12 inch diameter hole in a transfer line of 36 inches in diameter. It is not explained how a 12 inch rupture could occur nor why the accompanying vapour transfer line would also not be affected. Presumably a rupture to both lines would occur if impact, due to vessel collision - say a loaded aggregate carrier - was sufficiently severe somewhere along the 1.2km length of the jetty trestle. In this case there would be discharges from full guillotine ruptures from both lines not just a 12 inch diameter hole in the liquid transfer line. S-NA12-1
- The FLACS CFD model presumes the cross section geometry of the trestle unaffected by the accumulation of drifted snow and accreted ice for winter accident conditions. Such accumulations could drastically reduce the cross section and increase substantially the dispersion areas. The yearly average (1995>2011) snowfall for Robbinston, ME (NCDC Annual Climatological Summary) is over 91 inches with average accumulations in excess of 25 inches S-NA12-2

S-NA12 J.E.S. Venart on behalf of Three Nations Alliance

S-NA12-1 The selection of the design spill is explained in the EIS section 4.12.5 based on failure rates. See response to comment S-NA11-1 for design spill selection.

S-NA12-2 See response to comment NA4-199 for the potential for snow accumulation.

S-NA12

occurring – the maximum accumulation recorded for the period was 44 inches. A snowfall and ice accretion study similar to that performed for StatOil for their northern LNG facilities would appear desirable before one can make any definitive statement regarding areas that may be affected by the flashing and jetting dispersion of transfer line ruptures.

S-NA12-2
cont'd

- The FLACS model presumes a substrate thermal conductivity 100% greater than as built in order to “account conservatively for heat transfer from the walls of the trench and impoundment”. Such a modeling assumption may be incorrect as there is no mention of the boiling heat transfer regime being modeled – presumably film boiling. There does not appear to have been any consideration of the influence of snow and ice on the nucleation and thus boiling process. If nucleate boiling does take place a source many times greater than that assumed would occur. A quantitative study of this should first be undertaken in order to justify the modeling assumptions.

S-NA12-3

I thank you for your consideration of this material.

Yours very truly,



J E S Venart, PEng

S-NA12 J.E.S. Venart on behalf of Three Nations Alliance (continued)

S-NA12-3 See response to comment NA4-199 for the potential for snow accumulation.

S-NA13



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888 First Street, NE Room 1A
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eFiled on 2013 June 12

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
OEP/DG2E/Gas 1**

**FERC's request that NOAA concur that Downeast LNG would likely have no
impact on endangered species habitat**

Dear Ms. Bose,

On June 12, 2013, FERC filed to the docket¹ its correspondence with NOAA Fisheries, Protected Resources Division, requesting that NOAA concur with FERC's decision that the Downeast LNG project would likely not adversely impact protected species.

FERC's correspondence to NOAA fails to mention perhaps the most detrimental potential impacts on endangered species, as well as on the human population — heavy metal toxic contamination.

S-NA13-1

Save Passamaquoddy Bay points to its previous filing to the docket² demonstrating the presence of toxins — including mercury — in the bottom of the waterway. Downeast LNG terminal pier and trestle construction would likely re-suspend those toxins into the waterway, resulting in contaminating marine biota, including the food web relied upon by endangered species. Such construction would be likely to adversely impact protected species as well as subsistence fishers, including Passamaquoddy Tribal members, and general-population consumers of commercial species.

Although FERC's correspondence to NOAA lists required conditions for transits in Grand Manan Channel and the Bay of Fundy (to the east of Grand Manan), FERC fails to require conditions in the Head Harbour Passage and Passamaquoddy Bay waterway that would be used during transits to the proposed Downeast LNG terminal. Head

S-NA13-2

¹ Accession No. 20130612-3034, http://elibrary.ferc.gov/idmws/file_list.asp?document_id=14121952

² Toxins Assessment inadequacy, Environmental Justice, Accession No. 20120917-5045, 2012 Sep 17, http://elibrary.ferc.gov/idmws/file_list.asp?document_id=14052013

S-NA13 Robert Godfrey, Save Passamaquoddy Bay

S-NA13-1 The purpose of FERC staff's June 12, 2013 letter to NOAA Fisheries was to provide supplemental information in regard to certain conditions and minimization measures for Section 7 consultation. The letter can be viewed on eLibrary. Section 4.2.8 of the EIS addresses the potential for toxins, including mercury, to occur in the sediments at the terminal site and the likelihood of re-suspension from the proposed construction and operation.

S-NA13-2 The conditions and minimization measures listed in the enclosure of the referenced letter are NOAA Fisheries' conditions and minimizations measures. Downeast has agreed to follow these measures.

S-NA13

Harbour Passage is a known habitat for at least some of the endangered species mentioned in the correspondence.

S-NA13-2
cont'd

Save Passamaquoddy Bay advocates that since FERC's determination ignores potential toxic contamination and is seriously flawed, then NOAA must refuse concurrence with FERC's request.

S-NA13-3

Save Passamaquoddy Bay is so concerned about FERC's flawed assertions that we are alerting whale experts and Indigenous rights organizations to immediately respond.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
American Indian Environmental Office, US Environmental Protection Agency
Indigenous Environmental Network
Indian Health Service, US Department of Health and Human Services
Gulf of Maine Council on the Marine Environment
St. Andrews Biological Station
Huntsman Marine Science Centre
Grand Manan Whale & Seabird Research Station
Campobello Whale Rescue Team
North Atlantic Whale Consortium
New England Aquarium
Allied Whale
World Wildlife Fund
Quoddy Link Marine Whale Watching and Wildlife Cruises
Island Cruises
Fundy Tide Runners Whale Watching and Nature Tours
Jolly Breeze Whale Watching
Island Cruises Whale Watching
Indian Country Today Media Network
The Saint Croix Courier
Telegraph Journal
The Quoddy Tides
The Globe and Mail
Service List

S-NA13 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA13-3 This information is in section 4.2.8 of the EIS. The purpose of FERC staff's June 12, 2013 letter to NOAA Fisheries was to provide supplemental information in regard to certain conditions and minimization measures for Section 7 consultation.

S-NA14



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eFiled on 2013 June 14

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Toxic Contamination, Environmental Justice, and Tribal Liason**

Dear Ms. Bose,

On June 12, 2013, FERC filed¹ to the docket its request to NOAA Fisheries, Protected Resources Division, that NOAA concur with FERC's conclusion that the proposed Downeast LNG project would not adversely impact protected species.

Also on June 12, 2013, Save Passamaquoddy Bay filed to the docket that FERC has ignored scientific studies demonstrating heavy metal toxins in the seafloor around the proposed Downeast LNG trestle and pier, and that marine construction would reintroduce those toxins into the water column, contaminating the food web. Such contamination would result in adverse impacts on fish species consumed by Passamaquoddy Tribal subsistence fishers (as well as general-population consumption of area commercial fish species), resulting in toxic contamination of Passamaquoddy Tribal Members (and the general public).

S-NA14-1

Three Passamaquoddy Nation officials previously filed to the docket comments opposing Downeast LNG.²

At no place or time has Save Passamaquoddy Bay observed FERC's Office of General Council's Tribal Liaison communicate to the docket warning the Passamaquoddy Nation of adverse health impacts on Tribal members from the proposed Downeast LNG project pier and trestle construction (or of potential genocide re LNG ship Hazard Zones that

S-NA14-2

¹ Accession No. 20130612-3034, http://elibrary.ferc.gov/idmws/file_list.asp?document_id=14121952

² Sipayik (Pleasant Point Reservation) Passamaquoddy Tribal Council member Edward Basset, Accession No. 20130503-5134, http://elibrary.ferc.gov/idmws/file_list.asp?document_id=14112993; Chief Hugh Akagi of the St. Croix Schoodic Band of Passamaquoddy, Accession No. 20130513-5040, http://elibrary.ferc.gov/idmws/file_list.asp?document_id=14114578; and Passamaquoddy Tribal Historic Preservation Officer Donald Soctomah, Accession No. 20130516-5067, http://elibrary.ferc.gov/idmws/file_list.asp?document_id=14115603.

S-NA14 Robert Godfrey, Save Passamaquoddy Bay

S-NA14-1 Section 4.2.8 of the EIS addresses the potential for toxins, including mercury, to occur in the sediments at the terminal site and the likelihood of re-suspension from the proposed construction and operation. We believe there would be no adverse impacts from re-suspension of sediments during pier construction.

S-NA14-2 Section 4.10 of the EIS describes consultation with the Passamaquoddy Tribe. Section 4.12 of the EIS describes potential hazards of the project.

S-NA14

would engulf all of Sipayik/Pleasant Point Reservation). Likewise, no Tribal Liaison filings to the docket have been observed regarding the cultural implications of contaminating marine species held sacred by the Passamaquoddy Nation.

S-NA14-2
cont'd

Save Passamaquoddy Bay believes FERC has failed to observe its health, safety, and cultural preservation obligations to the Passamaquoddy Nation during this permitting, in violation of the National Environmental Policy Act (NEPA).

FERC must take into account the proposed Downeast LNG project adverse impacts on Passamaquoddy Nation health, safety, and culture, and must deny Downeast LNG's permits.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Chief Hugh Akagi
Tribal Historic Preservation Officer Donald Sotomah
Tribal Council Member Edward Bassett
Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
Service List

S-NA14 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA15



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eFiled on June 20, 2013

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Fishermen Testimony to the State of Maine**

Dear Ms. Bose,

In the interest of Environmental Justice¹ and Fair Treatment², Save Passamaquoddy Bay submits the accompanying testimonies of people who are frequently in the waters of Mill Cove and Passamaquoddy Bay — some for multiple years — making their living and risking their lives in these dynamic waters.

These testimonies were presented at the July 2007 State of Maine Board of Environmental Protection (BEP) quasi-judicial hearing on the Downeast LNG state permit applications.

After the hearing, the BEP required Downeast LNG to provide answers before issuing their decision. After five months of providing no response, Downeast LNG withdrew from the State of Maine permitting process. Now, **six years later, Downeast LNG has still not re-entered the state permitting process**, and in the March 22, 2013, *Quoddy Tides* newspaper, **Downeast LNG president Dean Girdis indicated that Downeast LNG does not intend to apply for state permits—**

"We will finish the (FERC) permitting process and see where we are." He admits that the natural gas market is different now, adding, "Maybe we don't do any-

¹ **Environmental Justice (EJ)** is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

² **Fair treatment** means that no group of people, including any racial, ethnic, or socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

S-NA15 Linda Cross Godfrey, Save Passamaquoddy Bay

S-NA15

thing." **He says Downeast LNG is not intending to proceed with state permitting, having withdrawn its application in 2007.**³ [Bold emphasis added.]

The attached materials provide expert testimony on the Mill Cove and nearby Passamaquoddy Bay area as being a significant lobster nursery. Testimony also addresses salmon, urchin, scallop, eel, and rockweed fisheries.

S-NA15-1

The Federal Government requires Downeast LNG to obtain State of Maine permitting under the National Environmental Policy Act (NEPA). A Submerged Lands Lease for the proposed approximate 4,000-foot-long trestle and pier is also required by the State.

Downeast LNG:

1. Has fulfilled none of the above requirements;
2. Has never applied for a Maine Submerged Lands Lease;
3. Went completely through Maine BEP permitting in 2007, withdrew prior to a permitting decision, and has now been completely absent from State of Maine permitting for 6 years;
4. Is not now in the permitting process for any Maine DEP/BEP or Submerged Lands permits; and
5. Has publicly declared it does not intend to re-enter state permitting.

Downeast LNG has clearly and overtly demonstrated its lack of purpose. In addition to failing FERC's purpose and need requirements, **Downeast LNG's presence in FERC permitting is a flagrant violation of U.S. Environmental Justice requirements⁴ and the principle of fairness.** It is discriminatory against the very people the Environmental Justice Executive Order was designed to protect.

S-NA15-2
S-NA15-3

FERC must honor Maine's authority and responsibilities in protecting Maine citizens, as well as NEPA and Environmental Justice requirements. FERC must deny Downeast LNG's permitting request.

S-NA15-4

Sincerely,

Linda Cross Godfrey, Coordinator
Save Passamaquoddy Bay 3-Nation Alliance

Attached Testimonies:
Robert Steneck
Donnell Dana
Martin "Dute" Francis
Brent Griffin

³ "Future of Canaport, Downeast LNG in question," 2013 March 22, *The Quoddy Tides*, http://quoddytides.com/canaport_downeast_lng3-22-13.html

⁴ Executive Order 12898 of February 11, 1994, "Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations."

S-NA15 Linda Cross Godfrey, Save Passamaquoddy Bay (continued)

S-NA15-1 Information on existing fisheries within Mill Cove and Passamaquoddy Bay is addressed in section 4.5.2 of the EIS. The final EIS includes updated information on results of lobster studies conducted by Downeast within Mill Cove. Responses to individual testimony given during the State of Maine Board of Environmental Protection hearings that were attached to this letter are not reproduced here but are available for review on the Commissions website under Docket No. CP07-52-000 and accession number 20130620-5037.

S-NA15-2 The purpose of the proposed project, as defined in Downeast's application to the FERC and summarized in section 1.1 of the EIS, is to establish an LNG marine terminal capable of receiving imported LNG from LNG vessels, and storing and regasifying the LNG. The project's need will be considered by the Commission in its determination whether or not to authorize the project.

S-NA15-3 We do not believe that the proposed project would violate Environmental Justice requirements. See our analysis of Environmental Justice in section 4.8.6 of the EIS.

S-NA15-4 We have complied with NEPA and CEQ requirements. We have addressed Environmental Justice requirements in section 4.8.6 of the EIS. This includes evaluation of numerous resources, including potential impacts on residents of the project area. Downeast would be responsible for obtaining any permits and authorizations necessary for construction and operation of its project, including those issued by the State of Maine, provided that state review does not interfere with the federal regulation of the proposed facilities that are under the jurisdiction of the FERC. Our analysis in the EIS will be considered by the Commission in its determination whether or not to authorize the project.

S-NA15

Dale Griffin
Michael Griffin
Timothy Griffin
David Pottle

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
Service List

S-NA15 Linda Cross Godfrey, Save Passamaquoddy Bay (continued)

S-NA16



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888 First Street, NE Room 1A
Washington, DC 20426

eFiled on June 20, 2013

Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001 Siting Issues

Dear Ms. Bose,

In the interest of Environmental Justice¹ and Fair Treatment², Save Passamaquoddy Bay herein provides testimonies of five experts regarding the proposed and inappropriately-sited Downeast LNG project and equally inappropriate proposed LNG ship transit route.

S-NA16-1

These testimonies were prepared for a 2007 State of Maine Board of Environmental Protection (BEP) quasi-judicial permit hearing. After five days of the public hearing, the BEP required Downeast LNG to answer specific questions prior to the BEP issuing their decision. After several months without providing answers, Downeast LNG withdrew from the State permitting process. In the ensuing 5 years, Downeast LNG has still not re-entered the state permitting process. In a recent *Quoddy Tides* newspaper article, **Downeast LNG president Dean Girdis indicated that the company has no intention of seeking State of Maine permits.**

The Federal Government requires Downeast LNG to obtain State of Maine permitting under the National Environmental Policy Act (NEPA). A Submerged Lands Lease for the proposed approximate 4,000-foot-long trestle and pier is also required by the State.

Downeast LNG:

1. Has fulfilled none of the above requirements;
2. Has never applied for a Maine Submerged Lands Lease;

¹ **Environmental Justice (EJ)** is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

² **Fair treatment** means that no group of people, including any racial, ethnic, or socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

S-NA16 Linda Cross Godfrey, Save Passamaquoddy Bay

S-NA16-1 Downeast would be responsible for obtaining any permits and authorizations necessary for construction and operation of its project. Table 1.3-1 and section 4.7.1.2 of the EIS state that Downeast would submit its Submerged Lands Lease application in conjunction with its Maine DEP application, after issuance of the final EIS. Responses to individual testimony given during the State of Maine Board of Environmental Protection hearings that were attached to this letter are not reproduced here but are available for review on the Commissions website under Docket No. CP07-52-000 and accession number 20130620-5038.

S-NA16

3. Went completely through Maine BEP permitting in 2007, withdrew prior to a permitting decision, and has now been completely absent from State of Maine permitting for 6 years;
4. Is not now in the permitting process for any Maine DEP/BEP or Submerged Lands permits; and
5. Has publicly declared it does not intend to re-enter state permitting.

Downeast LNG has clearly and overtly demonstrated its lack of purpose. In addition to failing FERC's purpose and need requirements, ***Downeast LNG's presence in FERC permitting is a flagrant violation of U.S. Environmental Justice requirements³ and the principle of fairness.*** It is discriminatory against the very people the Environmental Justice Executive Order was designed to protect.

The attached testimonies provide FERC with sufficient reasons to deny Downeast LNG's permits. Plus, FERC must honor Maine's authority and responsibilities in protecting Maine citizens, as well as NEPA and Environmental Justice requirements. FERC must deny Downeast LNG's permitting request.

Sincerely,

Linda Cross Godfrey, Coordinator
Save Passamaquoddy Bay 3-Nation Alliance

Attached: Testimonies of:

Clifford Goudey
Lars Lund
Arthur McKay
Lea Sullivan
Paul Templet

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
Service List

³ Executive Order 12898 of February 11, 1994, "Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations."

S-NA16 Linda Cross Godfrey, Save Passamaquoddy Bay (continued)

S-NA16-2 See response to S-NA15-2.

S-NA16-3 See response to S-NA15-3.

S-NA16-4 See response to S-NA15-4.

S-NA17



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eFiled on June 20, 2013

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
The Whole Bay Study**

Dear Ms. Bose,

Save Passamaquoddy Bay submits a study report and testimony by nationally respected researchers who personally engaged in the area and with persons who have the facts about the area. In the interest of Environmental Justice¹ and Fair Treatment², Save Passamaquoddy Bay hereby enters this testimony into the FERC permitting process.

S-NA17-1

Attached is testimony of Shanna Rattner, principle researcher and author of *"Report on Economic and Fiscal Impacts of LNG Terminals on the Whole Passamaquoddy Bay,"* an in-depth study of Passamaquoddy Bay area LNG proposals.

S-NA17-2

We have also enclosed Ms. Rattner's testimony that was presented at the July, 2007 State of Maine Board of Environmental Protection (BEP) quasi-judicial hearing on Downeast LNG's state applications.

Two other LNG developments proposed for Passamaquoddy Bay are also noted in "The Whole Bay Study." Quoddy Bay LNG never entered the state permitting process and was dismissed by FERC from federal permitting on October 17, 2008. Calais LNG withdrew from the state permitting process on Dec 14, 2010, and was dismissed by FERC from federal permitting on April 4, 2012.

¹ **Environmental Justice (EJ)** is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

² **Fair treatment** means that no group of people, including any racial, ethnic, or socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

S-NA17 Linda Cross Godfrey, Save Passamaquoddy Bay

S-NA17-1 The referenced report, referred to as the "Whole Bay Study," was previously filed with the Commission on October 2, 2006, and is part of the public record for the project. The issues raised by the study have been addressed in section 4.8 of the EIS. Therefore, responses to the copy of the study attached to this letter are not included here.

S-NA17-2 Responses to individual testimony given during the State of Maine Board of Environmental Protection hearings that were attached to this letter are not reproduced here but are available for review on the Commissions website under Docket No. CP07-52-000 and accession number 20130620-5039.

S-NA17

The Federal Government requires Downeast LNG to obtain State of Maine permitting under the National Environmental Policy Act (NEPA). A Submerged Lands Lease for the proposed approximate 4,000-foot-long trestle and pier is also required by the State.

Downeast LNG:

1. Has fulfilled none of the above requirements;
2. Has never applied for a Maine Submerged Lands Lease;
3. Went completely through Maine BEP permitting in 2007, withdrew prior to a permitting decision, and has now been completely absent from State of Maine permitting for 6 years;
4. Is not now in the permitting process for any Maine DEP/BEP or Submerged Lands permits; and
5. Has publicly declared it does not intend to re-enter state permitting.

Downeast LNG has clearly and overtly demonstrated its lack of purpose. In addition to failing FERC's purpose and need requirements, **Downeast LNG's presence in FERC permitting is a flagrant violation of U.S. Environmental Justice requirements³ and the principle of fairness.** It is discriminatory against the very people the Environmental Justice Executive Order was designed to protect.

S-NA17-3

S-NA17-4

FERC must honor Maine's authority and responsibilities in protecting Maine citizens, as well as NEPA and Environmental Justice requirements, and deny Downeast LNG's permits. Ms. Rattner's testimony and the "Whole Bay Study" also provide sufficient reason to deny the Downeast LNG permits.

S-NA17-5

Sincerely,

Linda Cross Godfrey, Coordinator
Save Passamaquoddy Bay

Attached:

Testimony of Shanna Rattner
Whole Bay Study

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
Service List

³ Executive Order 12898 of February 11, 1994, "Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations."

S-NA17 Linda Cross Godfrey, Save Passamaquoddy Bay (continued)

S-NA17-3 See response to S-NA15-2.

S-NA17-4 See response to S-NA15-3.

S-NA17-5 See response to S-NA15-4.

S-NA18



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eFiled on 2013 June 21

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
FERC's claim of legal obligation to continue Downeast LNG permit processing**

Dear Ms. Bose,

FERC Chairman Wellinghoff replied on 2013 June 18 to Canadian Ambassador Gary Doer¹, in which Chairman Wellinghoff claims FERC is legally obligated to complete Downeast LNG permit application processing.

Save Passamaquoddy Bay asserts that exactly the opposite is true: FERC is legally obligated to cease application permitting since Downeast LNG has no legal or practical ability to receive the LNG required for the project. The Downeast LNG project is a literal impossibility.

On 2007 April 5 the US Department of State, under then-Secretary of State Condoleezza Rice, knowingly made the untrue claim that LNG ships transiting to proposed terminals in Passamaquoddy Bay have an irrevocable right of innocent passage through Canada's Head Harbour Passage and Canadian waters in Passamaquoddy Bay. Since the US is not a party to the UN Convention on the Law of the Sea (UNCLOS) that codifies innocent passage for members of the treaty, the US has no such right. Even under customary maritime law the US claim of innocent passage is indefensible. The innocent passage claim is out-and-out fraud.

S-NA18-1

US Coast Guard Chief of International and Maritime Law RADM Charles Michel has publicly admitted that the US has no legal standing in this matter; that the US has no legal recourse. Q.E.D.²

FERC does have an obligation — but not an obligation to continue permit processing. FERC's obligation is to blow the whistle on the Department of State's wrongdoing and to

¹ Accession No. 201300620-0009, http://elibrary.ferc.gov/idmws/file_list.asp?document_id=14123999

² Q.E.D. — *quod erat demonstrandum* — the completion of the proof.

S-NA18 Robert Godfrey, Save Passamaquoddy Bay

S-NA18-1 See response to comment NA4-217.

S-NA18

correct its own participation in that wrongdoing; to cease Downeast LNG permit application processing.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Ambassador Gary Doer
US Department of State
Department of State Office of Inspector General
Department of Energy Office of Inspector General
New Brunswick Member of Parliament John Williamson
Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
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S-NA18 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA19



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888 First Street, NE Room 1A
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eFiled on 2013 July 2

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Waterway Bottom Disturbance: Impacts on Marine Mammals**

Dear Ms. Bose,

Downeast LNG proposes to construct a marine trestle of approximately 4,000-feet in length to a pier in the St. Croix Estuary of Passamaquoddy Bay. That construction would require extensive drilling and/or pile driving, changing the waterway environment and disturbing the waterway bottom, reintroducing known heavy-metal toxins (including mercury) into the water column. Save Passamaquoddy Bay has previously cited scientific studies, including participation by the US Environmental Protection Agency, demonstrating the existence of heavy-metal toxins in the waterway bottom.



Dolphins in Passamaquoddy Bay.

S-NA19 Robert Godfrey, Save Passamaquoddy Bay

S-NA19

On 2013 June 29, *Marine Pollution Bulletin* posted online a corrected proof of "Dredging displaces bottlenose dolphins from an urbanised foraging patch,"¹ for the first time documenting the impact of dredging on large marine vertebrates.

Although Downeast LNG is not proposing to dredge, the company is proposing a significant disturbance in, and modification of, the waterway bottom across the mouth of Mill Cove and along the natural waterway shoreline. Such disturbance and modification could change feeding patterns of local cetaceans, not to mention toxic contamination of the area's entire food web. Harbor porpoise are known to be present in the proposed development area. Minke, fin, and humpback whales, as well as seals, occur in nearby Western Passage. Dolphins have been observed in Passamaquoddy Bay. These mammals' presence, and their probable disturbance and contamination by Downeast LNG activity, indicate against FERC permitting the Downeast LNG proposal.

S-NA19-1

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: NOAA Fisheries Protected Resources Division
Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
Service List

¹ "Dredging displaces bottlenose dolphins from an urbanised foraging patch," corrected proof, *Marine Pollution Bulletin*, Science Direct, 2013 Jun 29, <http://www.sciencedirect.com/science/article/pii/S0025326X13003123#10005>

S-NA19 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA19-1 Contaminated sediments are addressed in section 4.2.8 of the EIS. The potential impact on marine mammals from construction and operation of the proposed project is addressed in sections 4.5 and 4.6 of the EIS.

S-NA20



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888 First Street, NE Room 1A
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eFiled on 2013 July 9

Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001

Dear Ms. Bose,

FERC has continued to process Downeast LNG's permit applications, even though Canada has firmly and on numerous occasions indicated to FERC and even to the US President, that LNG transits through Canadian waters to the proposed terminal are prohibited. The US Department of State has claimed a right of innocent passage through these Canadian waters, a right that enures only to parties to the United Nations Convention on the Law of the Sea (UNCLOS) — to which the US is not a party; thus, no US right of innocent passage exists.

S-NA20-1

Additional to the United States' false innocent-passage assertion, being overlooked is the history of dispute in this US-Canada boundary area, and its implications regarding the proposed Downeast LNG project. The US erred in its territorial claims of this region, contributing to eruption of the War of 1812, inspiring the construction of the St. Andrews Blockhouse and cannon defense against US privateering (US-sanctioned piracy) raids of the town — with the cannon aimed toward Maine, even to this very day.

On pages 3–4 of this comment is an op-ed that appeared in the 2013 July 06 Saint John, New Brunswick, *Telegraph Journal* newspaper entitled, "The non-battle that triggered Confederation." It tells of an unintended consequence: how armed aggression from civilians in the US against Canadian territory in Passamaquoddy Bay resulted in the confederation of Canada. The parallel to current US Government and Downeast LNG contempt for Canada's authority over its own territory is unmistakable.

Following "The non-battle that triggered Confederation," on page 5, is a recent political cartoon from *The Saint Croix Courier*, St. Stephen, New Brunswick, of a Canadian beaver igniting a "cannon" (sic; cannon) fireworks directed at Downeast LNG. The referenced cannon resides at the St. Andrews Blockhouse National Historic Site (see the photograph following the cartoon). The cartoon appears to be the result of FERC Chair Wellinghoff's recent dismissive letter to Canada's Ambassador Doer regarding

S-NA20 Robert Godfrey, Save Passamaquoddy Bay

S-NA20-1 See response to comment NA4-217.

S-NA20

Canada's sovereign authority to prohibit LNG ship transits through Head Harbour Passage and Canadian waters in Passamaquoddy Bay.

Downeast LNG is thumbing its nose directly in the face of St. Andrews, New Brunswick, Canada. The proposed terminal would literally place part of St. Andrews — ironically including the St. Andrews Blockhouse National Historic Site — within a US Sandia National Laboratories-defined LNG-ship Hazard Zone. S-NA20-2

The US fraudulently claims authority to approve Downeast LNG ship transits that would place Canadian citizens, territory, and assets in physical and economic jeopardy, while simultaneously claiming that Canada has no equivalent authority.

The US Coast Guard is well aware of the anti-drug riot that occurred on 2006 July 21 on Grand Manan, New Brunswick. Island citizens, dissatisfied with the lack of anti-drug policing in the community, armed with baseball bats, knives, guns, a flare gun, and a can of gasoline descended upon a local drug dealer's home, beat the drug dealer and burned his residence to the ground. Islanders took a "creative" approach to solving a problem that was not being addressed to their liking. In a 2007 letter to FERC's Richard Hoffman, Coast Guard Captain of the Port Stephen Garrity questioned how civil disobedience in the Canadian waterway could be addressed¹ (see the accompanying PDF of the letter, **02_Garrity2Hoffman.PDF**).

History of the Passamaquoddy Bay area provides instructive lessons, in which the US lost. By abusing Canada's sovereign authority and its citizens' safety, the Department of State, FERC, and the Coast Guard are demonstrating they have not learned from those lessons. History is being tempted to repeat.

It is in the United States' best interest to cease its improper processing of Downeast LNG's applications. At the very least, FERC must deny Downeast LNG's permits.

Very truly,

Robert Godfrey
Researcher & Webmaster

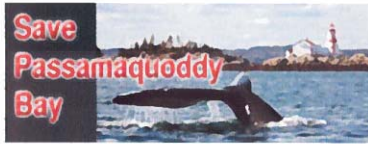
CC: Alan Moore, Port Security Specialist, USCG Sector Northern New England
Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
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¹ Letter from US Coast Guard Captain of the Port, Sector Northern New England, CAPT Stephen Garrity to FERC's Richard Hoffman, 2007 June 19, Calais LNG docket CP07-35 on 2007 July 6, Accession No. 20070706-0115, <http://elibrary.ferc.gov/kdmws/common/OpenNat.asp?fileID=11392589>

S-NA20 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA20-2 The potential for an accidental event to occur during LNG vessel transit, communities within the zones along the transit route including St. Andrews, and measures that would be in place to prevent such an event, are discussed in sections 4.12.5.3, 4.12.5.4, and 4.12.5.5 of the EIS. Because of the implementation of safety and security measures, which would be required during marine transit, the likelihood of a marine LNG spill would be remote.

S-NA21



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888 First Street, NE Room 1A
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eFiled on 2013 Jul 23

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Public Interest requirement**

Dear Ms. Bose,

Recent events draw attention to Downeast LNG's public-interest requirement failure. The massive domestic natural gas resources in the Marcellus Shale field near New England (and elsewhere) moot public interest in Downeast LNG.

In 2010, Neptune LNG Deepwater Port offshore from Gloucester and Boston, Massachusetts began operating. It has received no LNG imports for well over two years.

- On 2012 May 24, Neptune LNG submitted a request to MARAD to suspend import terminal operations for five years;
- On 2013 July 11, MARAD approved Neptune LNG's request, as reported in the 2013 July 16 Federal Register (see attached file: **02_neptuneLNG_suspension.PDF**)¹; thus, the Neptune LNG import terminal is now out of service.
- Northeast Gateway Deepwater Port also has had no LNG imports in over two years;
- The Distrigas Everett LNG terminal imports have been in deep decline;
- On 2013 June 27 the Maine legislature passed the Omnibus Energy Bill (HP 1128 or LD 1559) requiring the State of Maine to participate in expanding natural gas pipelines in New England to bring more domestic natural gas to Maine (see attached file: **03_Maine_HP1128.pdf**)².

¹ "Deepwater Port License: Amendment of the Neptune LNG LLC Deepwater Port License and Temporary Suspension of Operations at the Neptune LNG Deepwater Port," Federal Register, Vol. 78, No. 136, p42587, 2013 July 16, <<http://www.gpo.gov/dsps/pkg/FR-2013-07-16/pdf/2013-17052.pdf>>.

² "An Act To Reduce Energy Costs, Increase Energy Efficiency, Promote Electric System Reliability and Protect the Environment," 126th Maine Legislature, First Regular Session, http://www.mainelegislature.org/legis/bills/display_ps.asp?LD=1559&snum=126

S-NA21-1

S-NA21-1 The Commission staff recognizes the recent and ongoing shale gas developments in the Northeastern U.S. The project's need will be considered by the Commission in its determination whether or not to authorize the project.

S-NA21

The public interest lies in providing domestic natural gas, increasing US energy independence and reducing the trade deficit, rather than in relying on LNG imported from overseas that would increase the US trade deficit and would make the US more dependent on foreign energy.

S-NA21-1
cont'd

Maine legislation is now in place to expand Maine's and New England's access to nearby and plentiful domestic natural gas. Imports to existing LNG import facilities in New England are in decline or are non-existent. There is no justification to construct more LNG import infrastructure in New England to increase US dependence on overseas natural gas.

LNG import and storage capacity already exist at underused Canaport LNG, Everett LNG, Northeast Gateway, and now-suspended Neptune LNG import terminals. New terminal construction would exact an unnecessary environmental cost already spent by existing facilities.

Downeast LNG is clearly not in the public interest. FERC must deny Downeast LNG's permits.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
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S-NA22



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eFiled on 2013 Aug 30

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
FERC 2013 Aug 30 letter to NOAA, Accession No. 20130830-3001**

Dear Ms. Bose,

In response to FERC's August 30 filing, Accession No. 20130830-3001, Save Passamaquoddy Bay observes two deficiencies in FERC's request to NOAA:

1. No noise level study information regarding Downeast LNG's apparent proposal to use vibratory hammering during construction was included with the request; and S-NA22-1
2. FERC continues to ignore heavy-metal toxins in the waterway bottom that would be disturbed by construction. Re-introducing those toxins into the water column would contaminate commercial and sustenance fish species, non-commercial species, planktonic species, and marine mammals, including protected species. Such contamination would present serious health consequences to indigenous sustenance fishers — violation of federal Environmental Justice requirements — and would present serious health consequences to the area's general fish-consuming population. S-NA22-2

FERC continues to urge approving an inherently inaccurate biological assessment.
NOAA must reject FERC's flawed assessment.

S-NA22 Robert Godfrey, Save Passamaquoddy Bay

S-NA22-1 The revised Biological Assessment (BA) included in FERC staff's referenced submittal to NOAA Fisheries does include assessment of underwater noise from installation of piles, and evaluates the potential impact on listed species. The revised BA is included as appendix C of the EIS.

S-NA22-2 Section 4.2.8 of the EIS addressed the potential for toxins, including heavy metals, to occur in the sediments at the terminal site and the likelihood of re-suspension from the proposed construction and operation. Potential re-suspension of sediments and potential impacts on listed aquatic species that could occur in the vicinity of the proposed LNG terminal during construction is also addressed in the Biological Assessment and sections 4.5 and 4.6 of the EIS. We believe there would be no adverse impacts from re-suspension of sediments during pier construction.

S-NA22

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: NOAA Fisheries Protected Resources Division
Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
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S-NA22 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA23



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eFiled on 2013 September 17

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Violating the Public Interest**

Dear Ms. Bose,

The FERC Commissioners are scheduled to make a permitting decision on 2013 October 17, one month from today; and yet, there has been no Final Environmental Impact Statement (FEIS) published. The FEIS had originally been scheduled for publication on 2013 July 19, but was not published due to Downeast LNG's failure to provide vapor dispersion Exclusion Zone modeling that complies with USDOT regulations. FERC has not rescheduled an FEIS publication date.

Downeast LNG has been in the FERC application process since it entered the prefiling process on 2006 January 5. Downeast LNG entered FERC's formal permitting process on 2007 January 8. Then, on 2007 July16 Downeast LNG went through the Maine Board of Environmental Protection (BEP) permit hearing, virtually the last step in state permitting except for applying for a Maine Submerged Lands Lease for the proposed 4,000-foot-long trestle and pier.

On 2007 November 17, realizing its state permits would be denied, Downeast LNG withdrew from State of Maine permitting, and after nearly six years, still has made no attempt to reenter state permitting. Downeast LNG president Dean Girdis even announced in *The Quoddy Tides* newspaper recently that the company will not pursue state permits. Downeast LNG clearly does not intend to operate an LNG terminal; therefore, Downeast LNG has been wasting FERC's and numerous other federal, state, and local entities' time and effort, and the taxpayers' money.

Violating the Public Interest

Downeast LNG obviously violates the public interest in many ways:

1. Downeast LNG has demonstrated it cannot comply with US DOT LNG terminal vapor dispersion Exclusion Zone safety regulations. As such, Downeast LNG compares with the KeySpan LNG proposal at Providence, Rhode Island. FERC denied KeySpan's permits for failure to comply with USDOT terminal Exclusion

S-NA23-1

S-NA23 Robert Godfrey, Save Passamaquoddy Bay

S-NA23-1 A revised analysis has been provided and discussed in EIS section 4.12.5 that takes into account newly added mitigation measures that would prevent a vapor cloud from extending onto residential properties at Mill Cove. Some of these mitigation measures were made as a result of the potential public impact findings in the supplemental draft environmental impact statement.

S-NA23

- Zone safety regulations.¹ Similarly, Downeast LNG has failed to comply with US DOT Exclusion Zone safety regulations;
2. Downeast LNG's proposed terminal and LNG transits violate the LNG industry's own terminal siting best safe practices, per Society of International Gas Tanker and Terminal Operators (SIGTTO)²;
3. Due to safety, economic, and environmental concerns, Canada prohibits LNG transits through Canadian waters to Downeast LNG's proposed terminal. The US Coast Guard chief lawyer for international and maritime law has publicly admitted that the US has no legal standing to challenge Canada on prohibited LNG transits into Passamaquoddy Bay to the proposed Downeast LNG terminal.³ Downeast LNG cannot receive the very product required for the project;
4. The US is in a 100-year natural gas glut mooting any public interest in additional LNG import infrastructure as proposed by Downeast LNG;
5. Maine is advocating pipeline expansions from the vast and abundant Marcellus gas field to New England and Maine to overcome seasonal pipeline constraints⁴;
6. The State of Maine has already indicated on the FERC docket it is unlikely to grant a Submerged Lands Lease to Downeast LNG, since the proposed pier is 3,000 feet longer than Maine allows;
7. Downeast LNG has publicly stated that it does not intend to seek State of Maine permits; thus, it is wasting federal agency time and effort on a phantom project.

S-NA23-1
cont'd

S-NA23-2

S-NA23-3

S-NA23-4

S-NA23-5

Since Downeast LNG clearly violates the public interest in numerous ways, FERC must deny granting Downeast LNG application permits on October 17.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
Service List

¹ Order Denying Authorization Under Section 3 and Dismissing Certificate Application, 2005 July 5, <http://www.ferc.gov/whats-new/comm-meet/063005/C-3.pdf>

² Comment under PF06-13 on Downeast LNG's project violations of SIGTTO best practices standards, http://elibrary.ferc.gov/idmws/File_list.asp?document_id=4384390

³ U.S. Coast Guard Officer Claims Canadian PM Disregarded President Bush's Request for LNG Tanker Passage, 2007 Dec 12, <http://www.lnglawblog.com/2007/12/u-s-coast-guard-officer-claims-canadian-pm-disregarded-president-bushs-request-for-lng-tanker-passage/>

⁴ Eye on Augusta: Legislature Goes Big for Natural Gas, 2013 Aug 1, <http://freepressonline.com/main.asp?SectionID=50&SubSectionID=72&ArticleID=27545>

S-NA23 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA23-2 See response to comment IND30-4.

S-NA23-3 See response to comment S-NA2-1, NA4-217, NA7-20.

S-NA23-4 The Commission staff recognizes the recent and ongoing shale gas developments in the Northeastern U.S. The project's need will be considered by the Commission in its determination whether or not to authorize the project.

S-NA23-5 Downeast would be responsible for obtaining any permits and authorizations necessary for construction and operation of its project. Table 1.3-1 and section 4.7.1.2 of the EIS state that Downeast would submit its Submerged Lands Lease application in conjunction with its Maine DEP application, after issuance of the final EIS.

20130918-5017 FERC PDF (Unofficial) 9/18/2013 1:35:14 AM

S-NA24



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eFiled on 2013 September 18

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
LNG Flare Kills 7,500 Migratory Birds**

Dear Ms. Bose,

LNG terminals are known to flare off excess natural gas. It was reported on September 17 that overnight on Friday, September 14–Saturday, September 15 the natural gas flare at the Canaport LNG terminal killed 7,500 migratory songbirds. That is a significant mortality, especially for one night.

<http://www.cbc.ca/news/canada/new-brunswick/7-500-songbirds-killed-at-canaport-gas-plant-in-saint-john-1.1857615>

[This news story may have been updated since copied, below.]

7,500 songbirds killed at Canaport gas plant in Saint John Migrating birds, some possible endangered species, flew into gas flare

CBC News Posted: Sep 17, 2013 1:24 PM AT Last Updated: Sep 17, 2013 8:15 PM AT



20130918-5017 FERC PDF (Unofficial) 9/18/2013 1:35:14 AM

S-NA24

About 7,500 songbirds, possibly including some endangered species, were killed while flying over a gas plant in Saint John late last week, officials have confirmed.

It appears the migrating birds flew into the gas flare at Canaport LNG between Friday night and Saturday morning, said Fraser Forsythe, the company's health, safety, security and environmental manager.

The birds were drawn to the flame like moths, an extremely unusual event, according to Don McAlpine, the head of zoology at the New Brunswick Museum.



A large number of red-eyed vireos were among the estimated 7,500 migrating songbirds killed by the flare at Canaport LNG. (Courtesy of the Migration Research Foundation)

"They would circle in around that and of course with a large flame like that and high temperatures, they wouldn't need to get terribly close to become singed or burned."

The weather conditions were foggy and overcast at the time, which may have contributed to the incident, said McAlpine.

Not much is known about how such birds navigate at night, but officials believe they are attracted to light, particularly red or flashing lights, he said.

The flare tower at the Canaport liquefied natural gas receiving and regasification terminal is about 30 metres tall and the size of the flame varies, depending on weather conditions. It is typically higher amid low-pressure systems.

Flaring is part of the standard operation at the east side plant, located on Red Head Road, and is designed as a safety release system. It is used to maintain normal operating pressure by burning off small amounts of excess natural gas.

An estimated 6,800 birds were killed, while several hundred more were injured and had to be put down. "There were too many birds to count," said McAlpine.

"A crude estimate at this stage suggests about 7,500 birds died," he said. "There's certainly more than 5,000 and probably less than 10,000 birds affected."

S-NA24

'Although this is certainly a tragic event and it's shocking to see 7,500 dead birds, it's a drop in the bucket in terms of the number of birds that are killed from human actions every year.'

— Don McAlpine, New Brunswick Museum zoologist

McAlpine is still examining several hundred of the dead birds, which are being stored in a freezer, to try to identify their species.

There were a large number of red-eyed vireos, several types of warblers, including parula, black-and-white, magnolias and redstarts, as well as a few thrushes and rose-breasted grosbeaks, he said.

It's possible there may have also been some endangered species, such as the olive-sided flycatcher and Canada warbler, which are on the federal government's species at risk registry, said McAlpine.

"There are some flycatchers involved, but I haven't identified them yet. There's very few. Likewise with the Canada warbler, I haven't seen any yet, but it doesn't mean they're not there."

Many of the birds were badly burned, but some appeared completely unscathed, said McAlpine. He suspects they became disoriented and hit the tower or the ground, but several have been sent to the Atlantic Veterinary College in Prince Edward Island for necropsies to determine if there were any underlying conditions or external factors that may have contributed to the bird deaths.

The affected birds, which are mostly insect-eating, spend their summers in New Brunswick nesting and breeding before heading to Mexico, Central and South America for the winter, he said.

Staff 'reduced to tears'



The Canaport LNG terminal, located on Saint John's east side, is owned by Repsol and Irving Oil Ltd. (CBC)

Canaport LNG employees were devastated when they discovered the dead and injured birds piled up around the base of the plant's flame on Saturday morning, said Forsythe.

3

S-NA24

"We've got people that are pretty well reduced to tears here," he said.

"It has really struck home to our employees here and they've expressed a lot of remorse to me that this would happen. It's a very unexpected event," Forsythe said, adding it was the first incident of this type at the plant.

Cleanup efforts continued into Tuesday, said Forsythe.

Staff alerted the provincial Department of Environment, the Canadian Wildlife Service and the Atlantic Wildlife Institute in Sackville about the incident immediately, he said.

Barry Rothfuss, executive director of the Atlantic Wildlife Institute, said they are still busy dealing with the "carnage."

But they hope to be able to determine the cause and make recommendations to prevent a similar occurrence. "That's going to take some time," he said.

"I don't think it could have been necessarily perceived and accidents like this do happen and so it's a learning experience for all of us," Rothfuss added.

McAlpine said there is not a lot of information about bird mortalities involving flare towers.

"There's been a recognized need recently for further monitoring of this kind of thing," he said.

Still, McAlpine, said it's important to put the incident in perspective, noting an estimated one billion birds in the U.S. are killed every year from human causes.

"Although this is certainly a tragic event and it's shocking to see 7,500 dead birds, it's a drop in the bucket in terms of the number of birds that are killed from human actions every year," said McAlpine.

The leading cause of death is birds flying into tall office buildings, while house cats rank third, he said.

Canaport LNG, owned by Repsol and Irving Oil Ltd., lists bird monitoring as among its environmental and reporting activities on its website.

Migratory birds have been considered in previous environmental impact assessments at the terminal.

In March 2012, Canaport LNG announced plans for a \$43-million upgrade to make the facility more efficient and cut down on flaring.

4

S-NA24

The proposed Downeast LNG terminal is in the migratory flyway for scores of bird species.¹ Eastport, Maine, approximately 12 miles south of Downeast LNG's proposed Robbinston site, is known to average around 65 days of fog per year.² Foggy conditions at the proposed Downeast LNG terminal during bird migration is not unlikely.

S-NA24-1

Save Passamaquoddy Bay is concerned that potential environmental impacts on migratory birds, as occurred at Canaport LNG, could happen at the proposed Downeast LNG terminal, and that such impacts and preventative measures — including alternate terminal locations specific to this problem — have not been considered. We urge FERC and its cooperating agencies to investigate that potential prior to any permitting decision.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Department of the Interior
Environmental Protection Agency
Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
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Rebecca Boucher, Esq.
Service List

¹ Migration of Birds: Routes of Migration; U.S. Geological Survey, <http://www.npwrc.usgs.gov/resource/birds/migratio/routes.htm>

² *An Investigation of Atmospheric Optically Scattered Non-Line-of-Sight Communication Links*, Robert S. Kennedy, Massachusetts Institute of Technology, January 5, 1980; U.S. Army Research Office; Defense Technical Information Center, <http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA082004>

S-NA24-1 Downeast's proposed LNG terminal design does not include a permanent flare system. Section 4.12.3 has been corrected. Therefore, the type of incident that occurred at the Canaport facility would not occur at the Downeast LNG terminal.

S-NA25



Save Passamaquoddy Bay

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Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2013 September 23

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Vapor Dispersion Exclusion Zone and Allision**

Dear Ms. Bose,

FERC just issued a detailed request (Accession No. 20130919-3002) to Downeast LNG for vapor dispersion and thermal radiation (design spill) modeling results required by PHMSA (USDOT Pipeline and Hazardous Materials Safety Administration).

Save Passamaquoddy Bay reminds FERC, PHMSA, and Downeast LNG that the requested modeling should consider the design spill consequences from an allision between a ship — or other means, such as airplane, bomb, or rocket — and the pier's trestle during LNG offloading at the pier. Such an allision could well destroy the integrity of the proposed vapor barriers on the trestle, as well as cause an LNG release from the piping. The consequences could be similar to having no vapor barrier at all, leading to LNG vapor extending over private property and homes on the north side of Mill Cove, as was demonstrated in Downeast LNG's initial vapor dispersion modeling, in violation of regulations. As has previously been demonstrated (Accession No. 20130524-5097), thermal radiation from an LNG storage tank fire at the terminal would also exceed regulatory limits outside the terminal fence line.

Save Passamaquoddy Bay also is concerned that the FERC process and Downeast LNG's continued abuse of FERC deadlines are contrary to the public interest; to wit, Downeast LNG previously provided design spill results that failed the regulatory requirements. FERC has already given the applicant ample time to recalculate those results. Those results were required well in advance of FERC's scheduled 2013 July 19 release of the Final Environmental Impact Statement, but have not been forthcoming.

Save Passamaquoddy Bay urges FERC to either dismiss Downeast LNG from permitting, or to deny the permits.

S-NA25-1

S-NA25 Robert Godfrey, Save Passamaquoddy Bay

S-NA25-1 See response to comment S-NA11-1. The FERC has a legal obligation to continue processing Downeast's application so that all the issues can be properly documented before the Commission makes a decision on the proposal. FERC staff requests for information from the applicant typically state that if certain information cannot be provided within the specified time frame, the applicant should indicate which items would be delayed and provide a projected filing date. In most instances where Downeast did not provide the requested information within the specified timeframe, they did respond in a timely manner stating their intention to file the requested information. Delays in providing responses does, however, delay the overall review timeline.

S-NA25

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
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S-NA25 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA26



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eFiled on 2013 September 25

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Downeast LNG Falsely Blames US Government at Canada LNG Export Forum**

Dear Ms. Bose,

Save Passamaquoddy Bay is concerned that Downeast LNG president Dean Girdis, to and in a foreign country, has falsely and publicly blamed the US federal permitting process for Downeast LNG's own permitting failings.

Girdis was a panel presenter at the **Canada LNG Export Forum** that was held on 2013 September 17–19 in Calgary, Alberta, Canada. (Girdis is listed in the attached PDF file of the forum brochure, 02_Canada-LNG-Export-Brochure-Sep13.pdf, and website, 03_Dean_Girdis-Canada LNG_Export that is partially included, below).



Dean Girdis

CEO, Downeast
LNG

Biography

Dean Girdis is President of Downeast LNG, which he founded in the Spring of 2004. He manages project development, finance, commercial contracts, gas marketing, and LNG supply acquisition.



S-NA26

The *Calgary Herald*, the Canadian Press, and other sources, reported Girdis's nation-wide anti-safety, anti-regulatory permitting-condemnation remarks in Canada...

- *Calgary Herald*, Calgary, Alberta, 2013 Sep 19
<http://www.calgaryherald.com/business/Canadian+faces+race+access+markets/8929334/story.html>

An American LNG facility developer on the panel said U.S. developers face a tougher regulatory burden than Canadians, because of the lack of political support for exporting natural gas and related opposition from those who dislike hydraulic fracturing or fracking needed to develop the shale gas plays that have created the gas surplus.

"Time is what kills projects," said CEO Dean Girdis of Downeast LNG, adding: "Trust me, you do not want to do one in the States."

Girdis said he founded Downeast in 2004 to import LNG to Maine because the U.S. was short of gas at the time.

He said Downeast applied for permission from the Federal Energy Regulatory Commission to build the project in 2005 and, seven and a half years later, despite having no major problems identified, he still has not been issued a final environmental impact statement.

He said he's optimistic permission will come this winter.

"Downeast LNG will evaluate the LNG market once we receive our import authorization from FERC and determine our next steps," he said.

- *Calgary Herald*, Calgary, Alberta, 2013 Sep 18
<http://www.calgaryherald.com/business/energy/export+capability+crucial+Canada+for+mer+cabinet+minister/8928957/story.html>
- *The Record*, Kitchener, Ontario, 2013 Sep 18
<http://www.therecord.com/news-story/4087110-window-of-opportunity-could-close-on-canadian-natural-gas-exports-experts-warn/>
- *The Vancouver Sun*, Vancouver, British Columbia, 2013 Sep 18
http://www.vancouversun.com/business/energy/export+capability+crucial+Canada+for+mer+cabinet+minister/8928957/story.html?_Isa=3a88-f759
- *Driving.ca*, 2013 Sep 18
<http://www.driving.ca/Boom+towns+could+resources+municipalities/8931587/story.html>

S-NA26 Robert Godfrey, Save Passamaquoddy Bay (continued)

20130925-5095 FERC PDF (Unofficial) 9/25/2013 2:39:04 PM

S-NA26

- *FreeNewsPos.com*, 2013 Sep 19
<http://www.freeneewspost.com/news/article/f/264952/business/boom-towns-could-tax-re-sources-b-c-municipalities>

Girdis untruthfully disparaged the US permitting safety and regulatory processes — an affront to FERC's role as a safety regulator — to energy industry participants in a foreign country. His derogatory remarks were in a manner similar to his complaints about the Maine Board of Environmental Protection permitting process when his project was failing that process.

Girdis is well aware that his drawn-out permitting at FERC and total withdrawal from State of Maine permitting is principally due to his own poor site selection and safety and environmental failings.

It is also noteworthy that Girdis's remarks in the September 19 *Calgary Herald* article, recognize US natural gas resource abundance; in effect, he has admitted Downeast LNG's lack of public interest. Downeast LNG has been attempting to develop its project for *nine* years, has been in the federal permitting process now for *six* years, and continues to abuse FERC deadlines and requests for data.

Save Passamaquoddy Bay urges FERC to consider Girdis's abusive remarks and non-compliance in dismissing or denying Downeast LNG's application permits.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
Service List

S-NA26-1

S-NA26-1 FERC staff has not identified any situation of non-compliance on the part of the applicant. See response to comment S-NA25-1.



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S-NA27

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2013 September 26

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Downeast LNG's Bait-and-Switch Permit Application**

Dear Ms. Bose,

Although Downeast LNG continues seeking permits to import LNG, company president Dean Girdis's presence as a key LNG expert on the **Canada LNG Export Forum** discussion panel (see attached file, **02_Dean_Girdis-Canada_LNG_Export.pdf**) indicates a probable permitting bait-and-switch tactic.

The vast majority of existing US LNG import terminals are idle and are applying to export LNG. Canaport LNG import terminal is operating at around only 35% of capacity. The vast, prolific Marcellus shale field sits virtually at Maine's doorstep. Maine has passed an energy bill to expand natural gas access and pipeline capacity from the Marcellus to Maine. Importing incremental LNG into Maine makes no economic or energy security sense.

Girdis's presence and on the LNG export forum, and his remarks there, make it logical to conclude that Downeast LNG now ultimately intends to export LNG, but is hiding that intent from the public and federal permitting agencies, contrary to the public interest.

Save Passamaquoddy Bay asks FERC to answer the applicant's flawed project and unethical behavior by dismissing Downeast LNG from the permitting process or denying the applicant's permits.

Very truly,

Robert Godfrey
Researcher & Webmaster

S-NA27-1

S-NA27 Robert Godfrey, Save Passamaquoddy Bay

S-NA27-1 The FERC has a legal obligation to continue processing Downeast's application as an LNG import terminal so that all the issues can be properly documented before the Commission makes a decision on the proposal. Downeast has not indicated that it intends to convert the project to an LNG export terminal.

S-NA27

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
Service List

S-NA27 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA28



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eFiled on 2013 September 27

Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Guilt by Silence

Dear Ms. Bose,

US Criminal Court is considering a case that parallels Department of State, FERC, and Coast Guard activity during Downeast LNG (and now-defunct Quoddy Bay LNG and Calais LNG, both of which FERC dismissed) permitting.

The United States is currently engaged in a criminal obstruction of justice case against oil company personnel for not speaking out when those company personnel knew that superiors were making false statements to the US Government.¹ The court is considering whether "Guilt by Silence" — failure to speak up — is admissible evidence of criminal activity. Save Passamaquoddy Bay has previously commented to the FERC Downeast LNG docket (Accession Nos. 20130321-5053, 20130322-5154, 20130325-5031, and 20130621-5016) regarding the Department of State's fraudulent claim that LNG ships have the right of innocent passage under the UN Convention on the Law of the Sea (UNCLOS) through Canada's waters to proposed LNG terminals on the Maine coast in Passamaquoddy Bay.

Staff members at the Department of State, FERC, and the Coast Guard are well aware, since the US is not a party to UNCLOS, the Department of State's official claim is false. The claim is a bald attempt to inappropriately advantage LNG projects, wrongfully costing...

- US federal taxpayers;
- State of Maine;
- Government of Canada;
- Province of New Brunswick;

¹ *United States: Beware of "Guilt by Silence" — Failing to Speak Up May Evidence Obstruction*, Mondaq, 2013 September 13.
<http://www.mondaq.com/unitedstates/x/264414/Oil+Gas+Electricity/Beware+Of+Guilt+By+Silence+Failing+To+Speak+Up+May+Evidence+Obstruction>

S-NA28-1

S-NA28 Robert Godfrey, Save Passamaquoddy Bay

S-NA28-1 See response to comment NA4-217.

S-NA28

- Municipalities in both the US and Canada;
- Non-Government Organizations in both countries; and
- Individuals in both countries

...for vetting and permitting of those projects. The parallel with Guilt by Silence is obvious.

Lawyers and other personnel at the Department of State, FERC, and the Coast Guard know full well that the US has no legal standing to challenge Canada's prohibition of LNG ship transits into Passamaquoddy Bay. Therefore, Downeast LNG has no realistic probability of obtaining the LNG product required for its project. Likewise, if Downeast LNG is ultimately planning to export LNG, the company has no realistic probability of shipping that product out of its terminal through Canada's sovereign waters.

FERC may become adjudicated to be engaged in Guilt by Silence. It was FERC's legal obligation to speak up on this issue when it first surfaced. The truth about UNCLOS as it relates to Downeast LNG permitting is absolute. It is incumbent upon FERC to immediately dismiss Downeast LNG's applications.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
Service List
Department of Energy Office of Inspector General
Department of State Office of Inspector General
Coast Guard Office of Inspector General

S-NA28-1
cont'd

S-NA28 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA29



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eFiled on 2013 Sep 30

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Design Spill Results Flaw**

Dear Ms. Bose,

Downeast LNG submitted its revised design spill results in Accession No. 20130927-5214, claiming the results show that they now comply with USDOT PHMSA Exclusion Zone safety requirements. However, Downeast LNG's response does not appear to address a previously identified fatal flaw in their proposed pier and trestle design.

Save Passamaquoddy Bay previously commented about Downeast LNG's proposed vapor barriers along the entire 4,000-foot-long pier trestle. We observed that an allision by a vessel with the trestle while an LNG ship were offloading could compromise the integrity of the vapor barriers and cause a break in the LNG piping. Such an event would be similar to having no vapor barriers, returning to the previously modeled conditions demonstrating violation of PHMSA Exclusion Zone safety requirements.

We also observed that Downeast LNG's proposed pier and trestle extend extensively — approximately 4,000 feet — near the ship transit freeway, presenting significant exposure to allision. Such conditions are to be avoided, even according to the LNG industry's own best practices published by SIGTTO¹. Downeast LNG's proposed pier and trestle is an extreme case of flouting reason and industry best safe practices, and ultimately present a disallowed Exclusion Zone hazard to the public.

Save Passamaquoddy Bay contends that Downeast LNG's revised modeling is fatally flawed, and cannot comply with USDOT PHMSA Exclusion Zone safety requirements; therefore, Downeast LNG must be dismissed or permits denied.

¹ SIGTTO — Society of International Gas Tanker and Terminal Operators; *Site Selection and Design for LNG Ports and Jetties*, (ISBN 13: 9781856091299), <http://www.wilberbyseamanship.com/site-selection-design-ip-no-14-for-lng-ports-jetties.html>

S-NA29-1

S-NA29 Robert Godfrey, Save Passamaquoddy Bay

S-NA29-1 See response to comment S-NA11-1.

S-NA29

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
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S-NA29 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA30

James Venart, PEng
119 Turkey Trail Road
Elgin, NB
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888 First Street, NE Room 1A
Washington, DC 20426
eFiled on 2013 October 3

Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001

Design Spill Results

Dear Ms. Bose,

Downeast LNG has submitted its revised design spill results in Accession No. 20130927-5214, claiming results that show that they comply with USDOT PHMSA Exclusion Zone safety requirements. They use presumably as basis for the design spills selected the Pipeline Failure Rate Table provided as Enclosure 2 in the document submitted by T. Turpin of September 19, 2013.

It should be pointed out that failure rate tables, such as provided as Enclosure 2, are subject to uncertainty and differences in expert opinion and source. For example Enclosure 2 gives for Piping: 500mm (20-inch) \leq 1000mm (40-inch) $2.0\text{E-}08$ Failures per year of operation for Catastrophic rupture per meter of piping. However, values quoted on the basis of work undertaken by Vianello, and Maschio¹ based upon data compiled by EGIG² gives for catastrophic rupture $4.84\text{E-}05$ event/km*years, or a failure rate of $4.84\text{E-}08$ vs the $2.0\text{E-}08$ per m per year given in the DOT Enclosure 2. This value is 2.4 times greater than that given by DOT.

The use of the latter figure, considering that the DELNG Jetty liquid unloading line and its associated vapour balance line are both approximately 1300m long, excluding expansion loops, are in operation 24/7 in order to maintain temperature and for unloading, yields a catastrophic failure rate of $1.25\text{E-}04$

¹ Risk Analysis of Natural Gas Pipeline: Case Study of a Generic Pipeline, Chiara Vianello, Giuseppe Maschio Università di Padova, DIPIC – Dip. di Principi e Impianti Chimici di Ingegneria Chimica Via Marzolo 9 – 35131 Padova, Italy, chiara.vianello@unipd.it/EGIG, accessed October 2013.

² EGIG, 2008, Gas pipeline incidents. 7th report European Gas Pipeline Incident Data Group.

S-NA30 J.E.S. Venart on behalf of Three Nations Alliance

S-NA30

events per year vs DOT's 12 inch hole frequency of 1.3E-04 events per year. That is both events are of comparable likelihood.

Therefore in my view a dispersion study of the catastrophic rupture of both vapour and liquid lines must be required of DELNG and its consultants. S-NA30-1

J E S Venart, PEng



Cc Charles A. Helm
PHMSA, Training and Qualifications
6500 South MacArthur Blvd.
PHP-70, MPB, Room 335
Oklahoma City, OK 73169

S-NA30 J.E.S. Venart on behalf of Three Nations Alliance (continued)

S-NA30-1 We acknowledge that there are uncertainties in failure rates. Therefore, as described in section 4.12.5, in order to establish a more consistent approach with a quantitative justification, we evaluated various failure rates in the literature. These nominal failure rates were reviewed by DOT and used by Downeast in selecting its design spills. DOT reviewed the data and methodology Downeast used and had no objection to the methodology or design spills.



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S-NA31

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE Room 1A
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eFiled on 2013 October 4

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Uncontrollable Ignition Source and Terminal Safety**

Dear Ms. Bose,

This comment addresses a terminal ignition hazard not previously mentioned.

On October 3, Dr. James Venart filed a comment (Accession No. 20131003-5124) indicating an insufficiency in USDOT PHMSA requirements related to two lengths of piping along Downeast LNG's entire proposed 4,000-foot-long trestle between pier and LNG storage tanks. He advocated that a vapor dispersion study should be performed to model a simultaneous break in both pipes, since current modeling excludes a break in the vapor piping. Such a regulatory oversight emphasizes a related issue.

As has previously been commented, the entire intertidal zone of Mill Cove, and to the southern terminal property line, falls under Maine's prescriptive use law — the public has the right of unencumbered, unrestricted access to that intertidal zone at any time. Access cannot be denied, even adjacent or beneath the terminal trestle. Public activities that can occur there include a cooking fire and bonfire.

Ignition sources near the proposed LNG port are to be prevented, even according to the LNG industry's own Society of International Gas Tanker and Terminal Operators (SIGTTO) terminal siting best safe practices. Prescriptive use of the intertidal zone makes ignition-source prevention impossible.

When Downeast LNG was making its project site selection, the project developer should have known of both Maine's prescriptive use law and its implications on their proposed site, and of SIGTTO terminal siting best safe practices. Downeast LNG should have known of both, but instead, made a particularly injudicious decision in selecting the Mill Cove location.

S-NA31-1

S-NA31 Robert Godfrey, Save Passamaquoddy Bay

S-NA31-1 See response to comment S-NA7-14.

S-NA31

Downeast LNG has known for several years of:

- Its SIGTTO violations;
- Canada's LNG ship transit prohibition to the terminal;
- Its lack of standing re Canada's sovereign authority to prohibit those transits;
- Maine's prohibition of the 4,000-foot-long trestle and pier.

On top of all that, the US domestic natural gas supply has reversed from a shortage to a glut, eliminating any public interest in importing LNG. Even the state of Maine has legislated pursuit and financing of pipeline development to deliver natural gas from the Marcellus shale field to New England and Maine.

S-NA31-2

Downeast LNG has been negligent and irresponsible in its project development, resulting in a proposal with unnecessary and unacceptable fire and safety hazards and costs to the public. Save Passamaquoddy Bay urges FERC to dismiss Downeast LNG from the permitting process, or at the very minimum to deny its permits.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Rebecca Boucher, Esq.
Service List

S-NA31 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA31-2 The Commission staff recognizes the recent and ongoing shale gas developments in the Northeastern U.S. The project's need will be considered by the Commission in its determination whether or not to authorize the project.

S-NA32



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eFiled on 2013 October 15

Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
33 CFR §127— Smoking, Fires, Security, Access

Dear Ms. Bose,

Referring to **33 CFR §127—WATERFRONT FACILITIES HANDLING LIQUEFIED NATURAL GAS AND LIQUEFIED HAZARDOUS GAS**, the regulation specifically indicates the following:

§127.005 Definitions—Marine transfer area for LNG means that part of a waterfront facility handling LNG between the vessel, or where the vessel moors, and the last manifold or valve immediately before the receiving tanks.

§127.613 Smoking—In the marine transfer area for LNG, the operator shall ensure that no person smokes when there is LNG present.
[CGD 78–038, 53 FR 3376, Feb. 7, 1988, as amended at CGD 88–049, 60 FR 39796, Aug. 3, 1995]

§127.615 Fires—In the marine transfer area for LNG, the operator shall ensure that there are no fires when there is LNG present.
[CGD 78–038, 53 FR 3376, Feb. 7, 1988, as amended at CGD 88–049, 60 FR 39796, Aug. 3, 1995]

§127.703 Access to the marine transfer area for LNG—The operator shall ensure that—
(a) Access to the marine transfer area for LNG from the shoreside and the waterside is limited to—
 (1) Personnel who work at the waterfront facility handling LNG including persons assigned for transfer operations, vessel personnel, and delivery and service personnel in the course of their business;
 (2) Coast Guard personnel; and
 (3) Other persons authorized by the operator; and
(b) No person is allowed into the marine transfer area for LNG unless that person is identified by a waterfront facility handling LNG-issued identification card or other

S-NA32 Robert Godfrey, Save Passamaquoddy Bay

S-NA32

identification card displaying his or her photograph, or is an escorted visitor displaying an identifying badge.

[CGD 78-038, 53 FR 3376, Feb. 7, 1988, as amended by CGD 88-049, 60 FR 39796, Aug. 3, 1995]

§127.1325 Access to marine transfer area for LHG—Each operator of a waterfront facility handling LHG shall ensure that—

- (a) Access to the marine transfer area for LHG from shoreside and waterside is limited to—
 - (1) Personnel who work in the area, transfer personnel, vessel personnel, and delivery and service personnel in the course of their business;
 - (2) Federal, State, and local officials; and
 - (3) Other persons authorized by the operator;
- (b) Each person allowed into the area is positively identified as someone authorized to enter and that each person other than an employee of the facility displays an identifying badge;
- (c) Guards are stationed, and fences or other devices are installed, to prevent, detect, and respond to unauthorized access, fires, and releases of LHG in the area, except that alternative measures approved by the COTP (such as electronic monitoring or random patrols) will be sufficient where the stationing of guards is impracticable; and
- (d) Coast Guard personnel are allowed access to the facility, at any time, to make any examination or to board any vessel moored at the facility.

As Save Passamaquoddy Bay commented previously (Accession No. 20131004-5095), due to Maine's prescriptive-use law, the public cannot be prohibited from the proposed terminal intertidal zone that includes the marine LNG transfer area, and the public's recreational activities there cannot be prevented. Such public activities include tribal ceremonies, smoking, cooking fires, bonfires, and access to the marine-to-shore LNG transfer area.

Since those public activities are in conflict with the regulatory requirements of the terminal operator, and since there is no recourse to prevent those activities, Downeast LNG cannot comply with 33 CFR §127; therefore, FERC must either dismiss Downeast LNG from permitting or must deny Downeast LNG's application permits.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: US Coast Guard
Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List

S-NA32 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA32-1 See response to comment S-NA7-11 and S-NA11-1.



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eFiled on 2013 October 17

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Winter 2013-14 Energy Market Assessment Report to the Commission**

Dear Ms. Bose,

The FERC **Winter Energy Market Assessment Report** was issued on 2013 October 17 (see accompanying file, **2013-2014_Energy_Report_10-17-13.pdf**). The following statements are quotations from the report:

Page 7

Staff expects current production and storage levels to be sufficient to meet winter heating demand load this winter in all regions.

...

...[S]hale gas production in the Northeast outpaced declining production from the Gulf Coast and the West. Marcellus Shale gas production climbed to almost 12 Bcf/d in August from last year's 7.4 Bcf/d average. The Northeast is now the largest producing region in the U.S. ... The Northeast is now the largest producing region in the U.S. Gas production from the Eagle Ford Shale in Texas reached almost 5 Bcf/d in August, up from 3.3 Bcf/d a year ago.

...

Net U.S. natural gas imports from Canada are down 7% year-to-date as Canadian producers lose market share to U.S. production. Despite the decline in net imports, Canadian gas will continue to supply the Northeast during high demand periods this winter.

...

Natural gas supply from U.S. LNG import terminals dropped 40% to 0.3 Bcf/d in 2013, the lowest level since the late 1990s. With abundant domestic production and U.S. natural gas prices much below global gas prices, the only LNG imports that are certain this winter are at Elba Island in Georgia and Everett in Massachusetts, which have long-term contracts in place.

Page 8

... Closer and cheaper Marcellus Shale gas has largely displaced natural gas supplied to the Northeast via pipelines from the Southeast, the Mid-Continent, and Canada. Supplies from the Southeast, Mid-Continent, and Canada have fallen from around 12 Bcf/d in 2008 to less than 6 Bcf/d in 2013, while Northeast production has increased from 2 Bcf/d to over 11 Bcf/d.

...

However, LNG is likely to remain in short supply this winter with price spikes in New England not sustained long enough to incentivize LNG cargos. GDF Suez, the owner of the Everett LNG plant in Massachusetts, is under contract to divert almost half of its supplies to higher priced areas elsewhere in the world. Everett LNG now supplies only Mystic Power Plant Units 8 & 9, and local above ground LNG storage, but does not send out significant quantities of regasified LNG into interconnecting pipelines. Repsol, the owner of Canaport LNG, does not anticipate receiving many cargos this winter or going forward. As of mid-2013, Repsol is under contract to receive about two shipments of LNG a year, just enough to keep the terminal operating.

Pages 8–9

The new Deep Panuke production project, located offshore Nova Scotia, began flowing natural gas in August and could replace some of the lost LNG supply from Canaport. The project has the potential to supply 8% of New England's peak winter natural gas demand once it reaches its maximum steady production rate of 300 MMcf/d. However, it will not entirely replace Canaport, which is capable of almost 1 Bcf/d of sendout, and the timeline for the project to reach peak production capacity remains highly uncertain.

Page 10

While numerous pipeline projects are due to begin service in the Northeast by the end of the year, none are targeting New England until 2016 when Spectra Energy's Algonquin Incremental Market project is scheduled to enter service. The Texas Eastern Pipeline New Jersey-New York expansion, scheduled to go into service this November, could alleviate constraints into New York City, another market that experiences price spikes from pipeline bottlenecks. This 800-MMcf/d project will allow additional natural gas to flow from the constrained Tennessee 300 line to the New York and New Jersey markets. Incremental Marcellus flows into the NJ-NY project will be supplied via a 636-MMcf/d Northeast Upgrade expansion project on Tennessee Gas Pipeline.

Page 11

Additionally, Williams' Northeast Supply Link expansion project will add 250 MMcf/d of incremental capacity along the existing Transco system allowing additional Marcellus gas to reach major markets in New York. The additional capacity from these projects slated for this winter should alleviate major price spikes at the Transco Zone 6 New York pricing hub.

S-NA33

Page 12

ISO-New England has made several market changes to address the potential reliability concerns raised by the region's dependence on natural gas. Notably, the ISO changed the day-ahead market timing, created a winter reliability program, and made changes to the reserve market. First, the electricity day-ahead market will close two hours earlier than last year, allowing gas-fired generators to better coordinate their fuel-supply procurement in the natural gas markets.

Although pipeline constraints currently exist in natural gas delivery to Maine, New England, and the Northeast, FERC indicates pipeline development to deliver natural gas from the copious Marcellus supply is occurring. Also, the FERC report indicates other measures are taking place to reduce impacts of existing pipeline constraints.

FERC staff also indicates that seasonal demand is not great enough to spur LNG imports to the Northeast and New England. Canaport LNG, Everett LNG, and Cove Point LNG have basically been idle, other than Everett LNG honoring its long-term contracts to import. After previously attempting to get FERC to force LNG deliveries to the terminal to keep it cold enough to prevent decommissioning, Cove Point LNG is now hoping to export. And, Canaport LNG — just 40 miles from the proposed Downeast LNG terminal project — according to the FERC report, is importing simply to keep the facility from heating up and decommissioning.

FERC makes clear in its report that constraints in domestic natural gas delivery to the Northeast and New England are being addressed, with some measures occurring in the near term. Besides all this, Canada remains resolute in prohibiting LNG ships from transiting to and from the proposed terminal. It is obvious from FERC's report that the applicant's claimed potential need that might once have existed has faded; Downeast LNG is clearly contrary to the public interest.

Therefore, FERC must either dismiss Downeast LNG from permitting, or must deny Downeast LNG's application permits.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
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Service List

S-NA33-1

S-NA33-1 The Commission staff recognizes the recent and ongoing shale gas developments in the Northeastern U.S. The project's need will be considered by the Commission in its determination whether or not to authorize the project.

S-NA34



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Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2013 October 29

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Pipeline Infrastructure Development**

Dear Ms. Bose,

On 2013 October 29, Jeff C. Wright, Director, FERC Office of Energy Projects, testified before the US House of Representatives Committee on Energy and Commerce, Subcommittee on Energy and Power, Hearing H.R. 3301, re North American Energy Infrastructure Act (see file: [02_Wright-Testimony-House-Energy_20131029.pdf](#)). Mr. Wright's testimony includes the following statement...

*"The Commission is committed to making the regulatory process as short as possible while also providing public notice and opportunity for hearing before acting, to explain the reasons for the Commission's decision, and, authorize only those projects that are determined to be in the public interest. **Since 2000, this process has led to the certification of nearly 16,000 miles of interstate natural gas transmission pipeline and almost 1.2 trillion cubic feet of interstate storage capacity.**" [Bold red emphasis added.]*

Since the year 2000, nearly 16,000 miles of additional interstate natural gas pipeline has been placed into service. Through the year 2013, that averages over 1,000 miles of new natural gas interstate pipeline per year.

In 1999, Maritimes and Northeast Pipeline built a natural gas pipeline that runs from Nova Scotia, through Maine, to Massachusetts, providing supply to Maine. The pipeline approximately doubled its capacity in its Phase IV expansion project, completed in 2008. Also in 1999, the Portland Natural Gas Transmission System was completed, bringing additional natural gas supply to Maine. Maine Natural Gas is currently con-

S-NA34 Robert Godfrey, Save Passamaquoddy Bay

S-NA34

structing pipelines from the Maritimes and Northeast Pipeline to communities in the Augusta area of Maine.¹

Downeast LNG has claimed that its project is needed, in part, because permitting new and expanded natural gas pipeline infrastructure to deliver incremental natural gas supply to New England and Maine is difficult or improbable. Mr. Wright's testimony to Congress, and actual natural gas pipeline projects in Maine, prove otherwise.

Since pipeline delivery of natural gas from the prolific and nearby Marcellus gas field is the most practical, secure, reliable, and economic long-term solution to supplying natural gas to New England and Maine, and since Downeast LNG is not needed to provide that supply, the proposed Downeast LNG project contains no public interest; therefore, FERC must either dismiss the project from permitting, or must deny Downeast LNG's application permits.

Very truly,

Robert Godfrey
Researcher & Webmaster

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Rebecca Boucher, Esq.
Service List

S-NA34-1

S-NA34 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA34-1 The Commission staff recognizes the recent and ongoing shale gas developments in the Northeastern U.S. The project's need will be considered by the Commission in its determination whether or not to authorize the project.

¹ Maine Natural Gas Completes First Gas Pipeline to Augusta,
<http://mainenaturalgas.com/wordpress/wp-content/uploads/2013/10/MNG-Energizes-Steel-Pipeline-Augusta-Press-Release.pdf>

S-NA35



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Washington, DC 20426

eFiled on 2013 November 1

Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001

Dear Ms. Bose,

On 2013 October 29, Jeff C. Wright, Director, Office of Energy Projects at FERC testified to Congress...

"To streamline the permitting process, FERC establishes an expeditious publicly-noticed schedule for all decisions or actions taken by other federal agencies and/or state agencies delegated with federal authorizations. This includes federal authorizations issued by both federal and state agencies under the Clean Water Act, the Clean Air Act, the Coastal Zone Management Act, and others." [Red emphasis added; see accompanying file: 02_wright_testimony]

Save Passamaquoddy Bay points out that Downeast LNG entered FERC pre-filing on 2006 January 5, and entered formal filing on 2007 January 8; thus, **Downeast LNG has been in formal FERC permitting for two months shy of 7 years.** We also point out that Downeast LNG entered Maine NEPA environmental permitting, with a week-long hearing from 2007 July 16–20, and then withdrew on 2007 November 15 before the Maine Board of Environmental Protection could issue a permitting decision; and, has made no effort to re-enter state/NEPA permitting. In fact, **Downeast LNG president Dean Girdis has announced in the press that the company does not intend to seek state permits** (see accompanying file: 03_quoddy_tides.pdf). Downeast LNG president Dean Girdis recently disparaged the FERC permitting process to attendees at a foreign LNG export forum.¹

"Streamlined permitting" and "an expeditious publicly-noticed schedule" has certainly not applied to Downeast LNG's FERC permitting. Downeast LNG has repeatedly abused FERC deadlines with impunity, drawing out the permitting process, extending the financial, effort, and time burden on the public and government agencies. The latest abuse has resulted in delaying the Final EIS and the Commission permitting decision.

¹ Docket Accession No. 20130925-5095

S-NA35-1

S-NA35 Robert Godfrey, Save Passamaquoddy Bay

S-NA35-1 See response to comment S-NA25-1.

S-NA35

Downeast LNG is making a mockery of the entire permitting process. Save
Passamaquoddy Bay urges FERC to dismiss Downeast LNG from permitting, or to at
least deny its application permits. S-NA35-1
cont'd

Very truly,

Robert Godfrey
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S-NA35 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA36



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eFiled on 2013 November 12

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Expeditionousness Failure & Innocent Passage Fraud**

Dear Ms. Bose,

Expeditionousness Failure

On 2013 October 29, FERC Director of Office of Energy Projects testified before US House of Representatives Subcommittee on Energy and Power, stating...

*"To streamline the permitting process, FERC establishes an **expeditious** publicly-noticed schedule **for all decisions or actions taken by other federal agencies and/or state agencies delegated with federal authorizations.** This **includes federal authorizations issued by both federal and state agencies** under the Clean Water Act, the Clean Air Act, the Coastal Zone Management Act, and others."¹ [Bold emphasis added.]*

On 2013 July 19 — **seven (7) years into the FERC process**, including six (6) years in the formal permitting process and one (1) year of FERC-required pre-filing — FERC was to have issued the Final Environmental Impact Statement (FEIS); however, on 2013 July 16, **FERC announced that the FEIS would be delayed because Downeast LNG had not provided the requested revised design spill data that was due well in advance of the scheduled FEIS release date.** (Downeast LNG's originally-submitted design spill model results had failed to meet USDOT PHMSA Exclusion Zone safety requirements.)

In 2007 July, Downeast LNG completed the final step in Maine permitting (under the Clean Water Act, the Clean Air Act, and the Coastal Zone Management Act), culminating in a week-long quasi-judicial hearing. The only state permitting left was for a submerged lands lease for the proposed pier. However, **Downeast LNG then applied to withdraw from state permitting, and months later Maine allowed that withdrawal**, resulting in

¹ Docket CP07-52 Accession No. 20131101-5190,
http://elibrary.ferc.gov/dmws/file_list.asp?document_id=14159029

S-NA36-1

S-NA36 Robert Godfrey, Save Passamaquoddy Bay

S-NA36-1 Downeast would be responsible for obtaining any permits and authorizations necessary for construction and operation of its project. See also response to comment S-NA25-1.

S-NA36-1 S-NA36

a waste of time and resources by taxpayers, affected communities, and NGOs — **contradicting FERC's claim to Congress of FERC-required expeditious permitting decisions by state agencies.** Note that **the Maine Department of Conservation Bureau of Parks and Lands** that issues submerged lands leases **filed in 2006 to the FERC prefiling docket that it would be unlikely to permit Downeast LNG's proposed pier.**²

S-NA36-1
cont'd

Downeast LNG does not intend to refile for state permits, as it has stated to the press³ — contrary to FERC's statement to Congress regarding expeditious state permitting. Downeast LNG is purposefully dragging out the permitting process, with no intent of constructing or operating an LNG terminal.

On 2013 November 18, FERC issued an update, indicating that Downeast LNG had submitted the requested design release information on 2013 September 23 — **more than two months after the FEIS was scheduled for release.** FERC indicated it will issue a Final Environmental Impact Statement (FEIS) **sometime in the future, after PHMSA makes a determination.**

FERC is not adhering to the expeditiousness claim made to Congress, in part because the applicant is dragging its heels, but also **in large part because FERC enables the applicant to delay the process.** FERC has allowed Downeast LNG to drag out the permitting process, while exacting a time- and financial-burden on everyone involved, including US taxpayers, affected local communities and citizens, and NGOs.

Fraud

FERC knows well that the US Department of State declaration of innocent passage into Passamaquoddy Bay under UNCLOS is unfounded.⁴ There is no way for Downeast LNG to receive the very product it needs to operate.

S-NA36-2

The Department of State knowingly issued a false claim in order to wrongly advantage LNG projects in Passamaquoddy Bay, resulting in inappropriate cost to taxpayers; in other words, fraud. Rather than pointing out the Department of State's wrongdoing, FERC has been complicit in that fraud.

Ever since the Department of State's fraudulent claim, FERC has remained legally obligated to dismiss Downeast LNG from permitting. FERC has but one choice — to dismiss Downeast LNG.

² Prefiling Docket PF06-13, Accession No. 20060504-0141, http://elibrary.ferc.gov/idmws/file_list.asp?document_id=4401317

³ Docket CP07-52 Accession No. 20131101-5190, <http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=13385957>

⁴ **Quoddy Bay LNG**, Docket CP07-38, Accession No. 20070405-5056, http://elibrary.ferc.gov/idmws/File_list.asp?document_id=13493059

S-NA36 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA36-2 See response to comment NA4-217.

S-NA36

Very truly,

Robert Godfrey
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S-NA36 Robert Godfrey, Save Passamaquoddy Bay (continued)



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S-NA37

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2013 November 25

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Maine Exports Natural Gas to Canada**

Dear Ms. Bose,

The US Energy Information Administration (EIA) reports on 2013 November 19, that beginning this year, Maine has been exporting compressed natural gas by truck to Canada through Calais, Maine.¹ and Northeast natural gas production has increased 586%.² The report also states that natural gas imports from Canada to the Northeast have fallen 82%, and that pipeline exports from the Northeast to Canada have increased so much that the Northeast has at times been a net natural gas exporter to eastern Canada.³ S-NA37-1

The EIA has reported the obvious: There is no reason to import expensive overseas LNG into Maine when the Northeast US has vast, growing, reliable, and inexpensive domestic natural gas resources, and when Maine is actually exporting natural gas to Canada. Downeast LNG has no purpose or need. For this and many other reasons previously posted to the docket, FERC must dismiss Downeast LNG from permitting.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
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Service List

¹ "Increased Northeast natural gas production reduces net inflow of supply from other areas," Today in Energy, EIA, 2013 November 19, <http://www.eia.gov/todayinenergy/detail.cfm?id=13851>

² Ibid., 12.3 Bcf/d Northeast production in 2013, up from 2.1 Bcf/d in 2008, is a 586% increase.

³ Ibid.

S-NA37 Robert Godfrey, Save Passamaquoddy Bay

S-NA37-1 The Commission staff recognizes the recent and ongoing shale gas developments in the Northeastern U.S. The project's need will be considered by the Commission in its determination whether or not to authorize the project.



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S-NA38

Kimberly D. Bose, Secretary
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888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2013 November 26

Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001

Dear Ms. Bose,

No Maine Permitting

Downeast LNG president Dean Girdis has indicated, per the November 22 *Quoddy Tides*, that the company does not plan to seek Maine permits (see accompanying file: [QuoddyTidesArticle_2013nov22.pdf](#)), stating...

"The company is not currently intending to proceed with state permitting, having withdrawn its applications in 2007."

It was clear in 2007 that Downeast LNG would fail its state permitting, so the applicant withdrew. In the subsequent nearly-seven (7) years, Downeast LNG has made no effort to re-enter state permitting, and has indicated it has no plans to do so. A serious project would have been pursuing state permits long before now.

Pipeline Sensibility vs Imported LNG

Mr. Girdis also stated that a new natural gas pipeline from New York to Massachusetts is needed to supply New England, and even admits that his proposal is not economically justified...

"He believes a new pipeline needs to be built from New York to Massachusetts. Last March, Girdis had noted that the natural gas price would have to become very high to justify importation of LNG into the U.S."

Additional pipeline capacity from the Marcellus to New England and Maine makes far more economic, energy security, reliability, and public interest sense than importing LNG from overseas sources that may be unfriendly and unreliable.

No Public Interest

Such a pipeline will eliminate need — and the state of Maine has enacted its Omnibus Energy Bill (2013 June 5; previously filed; see Accession No. 20130723-5094), requiring pursuit of constructing such a pipeline, and obtaining capacity on it. Conversely, Maine is not pursuing LNG imports from anyone.

S-NA38-1

S-NA38-2

S-NA38 Robert Godfrey, Save Passamaquoddy Bay

S-NA38-1 Downeast would be responsible for obtaining any permits and authorizations necessary for construction and operation of its project.

S-NA38-2 The Commission staff recognizes the recent and ongoing shale gas developments in the Northeastern U.S. The project's need will be considered by the Commission in its determination whether or not to authorize the project.

S-NA38

Downeast LNG does not intend to seek Maine permits — and Maine previously filed to the docket that state permitting is unlikely (Prefiling Docket PF06-13, Accession No. 20060504-0141).

Downeast LNG fails to serve the public interest; there is no justification for the proposed project. FERC must dismiss Downeast LNG from permitting.

Very truly,

Robert Godfrey
Researcher & Webmaster

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Sen. Susan Collins
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Service List

S-NA38 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA39



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eFiled on 2013 December 2

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Canaport LNG Exports Approved**

Dear Ms. Bose,

On 2013 November 26, CBC/Radio Canada announced that Canaport LNG has been granted regulatory approval to **export** LNG by ship.¹ Built as an import terminal, Canaport LNG is located east of Saint John, New Brunswick, Canada, is only 40 miles east of the proposed Downeast LNG project at Robbinston, Maine. Canaport has a natural gas output capacity of 1.2 Bcf/day, and began operating in 2009 to provide natural gas to New England and New Brunswick, Canada.

In Spring 2013, When Repsol sold off its LNG operations, it was unable to find a buyer for unprofitable Canaport LNG — there were no takers! As a result, Repsol reduced the Canaport terminal's book value by \$1.3 billion — more than the terminal's \$1.2 billion development cost.²

The prolific supply of US domestic natural gas available from the Marcellus and elsewhere in the US resulted in Canaport LNG significantly reducing its throughput to just a fraction of capacity, seriously impacting profitability. According to FERC's own *Winter 2013–2014 Energy Market Assessment to the Commission*, Canaport is projected to import only about two cargoes in the upcoming year, just to keep the terminal from decommissioning.³

US domestic natural gas supply has mooted incremental US LNG imports, has caused Neptune LNG offshore from Boston to decommission from lack of need, Northeast

¹ "Canaport LNG given permission to export via tankers," *CBC News*, 2013 Nov 26, <http://www.cbc.ca/news/canada/new-brunswick/canaport-lng-given-permission-to-export-via-tankers-1.2441102>

² "Canaport Facts," Repsol, http://www.repsolenergy.com/canaport/canaport_facts.html

³ "Winter 2013–2014 Energy Market Assessment to the Commission," FERC, 2013 October, <http://www.ferc.gov/market-oversight/reports-analyses/mkt-views/2013/10-17-13.pdf>

S-NA39-1

S-NA39 Robert Godfrey, Save Passamaquoddy Bay

S-NA39-1 The Commission staff recognizes the recent and ongoing shale gas developments in the Northeastern U.S., and the shift in other projects from import to export of LNG. The project's need will be considered by the Commission in its determination whether or not to authorize the project.

S-NA39

Gateway offshore from Boston has had no LNG imports for well over two years, and domestic supply now has had a similar impact on Canaport LNG. Thus, Canaport sought, and has been granted, the right to export LNG. The CBC announcement indicates Canaport LNG may begin exporting this winter.

S-NA39-1
cont'd

Existing US LNG import terminals without long-term contract obligations requiring them to import are idle — or are re-exporting — and are applying to export. US natural gas production, especially in the Northeast, is booming, with perhaps a century or more of the resource in the ground. It is abundantly clear that there is no need for yet another idle LNG import terminal such as proposed Downeast LNG, especially considering the negative environmental and economic impacts such development would cause.

Pipeline development, and increased capacity from the Marcellus to New England and Maine has been legislated by Maine via the recent Energy Omnibus Bill, enacted in 2013 June.⁴ Pipeline access to the Marcellus is the most economic, reliable, energy-secure, and reasonable solution to providing Maine and New England with incremental natural gas.

Downeast LNG has no useful purpose and is contrary to the public interest. For this and many other reasons previously presented to the docket, FERC must dismiss Downeast LNG from permitting.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
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⁴ See Accession No. 20130723-5094

S-NA39 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA40



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Washington, DC 20426

eFiled on 2013 December 18

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Marcellus Production and Public Interest Violation**

Dear Ms. Bose,

Natural gas production in the Marcellus is booming, mooting the need to import LNG:

From 2011 to 2012, Pennsylvania's marketed natural gas (which includes natural gas plant liquids) production grew by 72%, moving it from the seventh-largest to the third-largest marketed gas-producing state in the United States, according to the Natural Gas Annual, 2012. Preliminary data (as well as estimates from the Drilling Productivity Report) indicate that continued Marcellus production may result in Pennsylvania becoming the second-largest producer in 2013. Tight gas development significantly increased production in several regions, including the Marcellus in the Northeast and the Eagle Ford in Texas. Marketed production in the Lower 48 states increased by 5% between 2011 and 2012, rising from 23.7 trillion cubic feet (Tcf) to 25.0 Tcf.¹

All six New England Governors are working cooperatively to develop pipelines and capacity to deliver low-cost domestic natural gas to New England, including Maine:

AUGUSTA, Maine — Gov. Paul LePage on Thursday announced that he and the five other New England governors have committed to a new plan for a cooperative, regional energy infrastructure.

¹ "Pennsylvania is the fastest-growing natural gas-producing state," EIA, 2013 Dec 17, <http://www.eia.gov/todayinenergy/detail.cfm?id=14231>

S-NA40 Robert Godfrey, Save Passamaquoddy Bay

S-NA40

The goal of the agreement is "affordable, cleaner and reliable power for homes and businesses across the Northeast." Among other things, the statements from each governor point to a fledgling plan to bring higher natural gas capacity to all of New England.²

Domestic natural gas from the Marcellus offers greater energy security and affordability than LNG imported from overseas. LNG import development contradicts the public interest.

S-NA40-1

The proposed Downeast LNG project's violation of the public interest continues to grow. For this and the many other reasons previously filed to the docket, FERC must dismiss Downeast LNG from permitting.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
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Service List

² "All six New England governors commit to joint energy infrastructure agenda," Bangor Daily News, 2013 Dec 5, <http://bangordailynews.com/2013/12/05/politics/all-six-new-england-governors-commit-to-joint-energy-in-frastructure-agenda/?ref=search>

S-NA40 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA40-1 The Commission staff recognizes the recent and ongoing shale gas developments in the Northeastern U.S. The project's need will be considered by the Commission in its determination whether or not to authorize the project.

S-NA41



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eFiled on 2013 December 19

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
PNGTS Capacity Expansion to Maine**

Dear Ms. Bose,

The Portland Natural Gas Transmission System (PNGTS) has announced an open season for its Continent to Coast (C2C) Expansion Project.

Through the C2C Project, PNGTS contemplates expanding the capacity of its system from 168,000 Dth/day to approximately 300,000 Dth/day from Pittsburg to Westbrook. Shippers may bid on firm transportation service from the system receipt point at Pittsburg, NH, to any existing delivery point up to and including Westbrook, ME. Bidders may also bid on any delivery point on the Joint Facilities between Westbrook, ME, and Dracut, MA; however, additional incremental capacity is only contemplated between the Pittsburg and Westbrook points. Capacity along the Joint Facilities from Westbrook to Dracut will remain at its current level of 210,000 Dth/day.¹

Additionally, TransCanada Corporation and Iroquois Gas Transmission System are offering open seasons to deliver greater natural gas volumes eastward of the Marcellus:

An open season announced last week by TransCanada Corp. on the eastern leg of its Mainline has prompted two other pipelines to jump on board with complementary eastbound Marcellus Shale-oriented projects of their own.

Iroquois Gas Transmission System LP and Portland Natural Gas Transmission System (PNGTS) on Tuesday each launched open seasons offering capacity intended to complement that being offered by TransCanada Corp. on the eastern leg of its Mainline (see Daily GPI, Dec. 2).

¹ "Portland Natural Gas Transmission System's Continent to Coast Expansion Project," Portland Natural Gas Transmission System, 2013 Dec 3, <http://www.gasnom.com/ExternalFiles/SitesIP/pngts/OpenSeasonDocumentAndBindingRequest.pdf>

S-NA41 Robert Godfrey, Save Passamaquoddy Bay

S-NA41

Iroquois is proposing a system reversal, called the South-to-North (SoNo) project, to provide access to TransCanada at Waddington, NY. Separately, PNGTS reopened a binding open season for its Continent 2 Coast (C2C) Expansion, which would expand capacity of its system from 168,000 Dth/d to about 300,000 Dth/d from Pittsburg, NH, to Westbrook, ME.²

As a result of the expansion and pipeline reversal, greater-volumes of natural gas will be delivered to Maine, further mooted proposed Downeast LNG.

S-NA41-1

For this and many other reasons previously filed to the docket, Downeast LNG contradicts the FERC public interest requirement; therefore, FERC must dismiss Downeast LNG from permitting.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List

² "Iroquois, PNGTS projects target TransCanada Eastern Mainline expansion," Natural Gas Intelligence, 2013 Dec 3, <http://www.naturalgasintel.com/articles/96609-iroquois-pngts-projects-target-transcanada-eastern-mainline-expansion>

S-NA41 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA41-1 The Commission staff recognizes the recent and ongoing shale gas developments in the Northeastern U.S. The project's need will be considered by the Commission in its determination whether or not to authorize the project.

S-NA42



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Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2013 Dec 20

Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Downeast Maine exports natural gas to Canada

Dear Ms. Bose,

Last winter, Xpress Natural Gas (XNG) of Woburn, Massachusetts, developed a compressed natural gas (CNG) facility at Baileyville, Maine. The facility is a mere 16 miles as-the-crow-flies from the proposed Downeast LNG import terminal.

XNG has been exporting natural gas via truck from the Maritimes and Northeast Pipeline (M&NE Pipeline) in Baileyville to Prince Edward Island, Canada, and is developing additional customer interest in the Maritimes. XNG is also delivering natural gas by truck to numerous customers in Maine.¹

XNG already has access to a plentiful supply of natural gas to meet customers' needs, and is developing even more customers. Downeast LNG is superfluous.

There is considerable irony in Downeast LNG's applications before FERC — the developer claims that Downeast LNG is the only way to provide sufficient low-cost natural gas to Maine and elsewhere in New England. And yet, natural gas that has already been imported by pipeline from Canada is being trucked back to customers in Canada. Similarly, natural gas in the M&NE Pipeline is being trucked to customers in Maine.

XNG already has access to readily available natural gas in the existing M&NE Pipeline. Plus, the Portland Natural Gas Transmission System pipeline bringing natural gas to Maine is doubling its capacity. And, there are proposals to reverse the M&NE Pipeline, to bring the copious domestic Marcellus natural gas to Maine and the Maritimes. There is no better argument against Downeast LNG.

¹ "Baileyville CNG facility grows," The Quoddy Tides, 2013 Dec13,
http://quoddytides.com/baileyville_cng12-13-13.html

S-NA42 Robert Godfrey, Save Passamaquoddy Bay

S-NA42

As has already been established on the docket, Downeast LNG...

1. Refuses to recognize Native American rights in the impacted waterway.
2. Has denigrated FERC permitting to industry members in another country;
3. Would create unnecessary negative environmental and economic impacts;
4. Violates its own industry's terminal siting best safe practices (SIGTTO);
5. Cannot ensure safe and secure vessel transits in Head Harbour Passage and Canadian portions of the Bay of Fundy and Passamaquoddy Bay;
6. Cannot satisfy PHMSA vapor dispersion Exclusion Zone requirements;
7. Cannot satisfy PHMSA thermal radiation Exclusion Zone requirements;
8. Cannot ensure safety and security of the proposed marine piping trestle due to Maine's prescriptive use law giving the public unrestricted use of the proposed terminal's entire intertidal zone;
9. Violates Maine's 1000-foot pier length restriction by more than 1/2 mile;
10. Does not intend to re-enter Maine state permitting; and
11. Has no ability to receive LNG by ship due to Canada's prohibition of such transits;

Downeast LNG abuses the FERC permitting process and violates the public interest, and is not needed to meet Maine's, New England's, or the North East's natural gas requirements. FERC must dismiss Downeast LNG from permitting.

S-NA42-1

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List

S-NA42 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA42-1 The Commission staff recognizes the recent and ongoing shale gas developments in the Northeastern U.S., and the related shift of some projects toward export of natural gas. The project's need will be considered by the Commission in its determination whether or not to authorize the project. See also responses to comment S-NA25-1.

20131227-5008 FERC PDF (Unofficial) 12/27/2013 1:07:31 AM

S-NA43



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888 First Street, NE Room 1A
Washington, DC 20426

eFiled on December 27, 2014

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Downeast LNG lack of standing**

Dear Ms. Bose:

The time has come to end the 10-year LNG assault on Passamaquoddy Bay, the cultural heritage bay that is the heart of the three nations surrounding it — communities in Washington County, Maine, the Passamaquoddy Tribe, and communities in Charlotte County, New Brunswick, Canada.

While most other proposed LNG terminal locations have dealt with one such proposal, we around Passamaquoddy Bay have had to deal with three, plus a decade of community disruption, financial burden, and wasted time and effort.

Quoddy Bay LNG

The proposal by Quoddy Bay LNG at Sipayik/Pleasant, the Passamaquoddy Tribe's saltwater homebase in the US, and Perry, Maine, ended with FERC dismissing the project for failing to answer technical questions. In reality, the project had more problems.

Quoddy Bay LNG proposed using a scant 2-acres site on a causeway-connected islet (as well as on shore in Perry, Maine), adjacent to monthly Passamaquoddy cultural bonfires, where those locations would have required LNG piping to cross a state highway, a cove, and a town road. The company pressured the Department of Interior's Bureau of Indian Affairs (BIA) to improperly approve a ground lease of tribal land, which was ultimately adjudicated to be invalid because the BIA violated its own ground-lease approval process.

So, years of effort by the public, thousands of dollars needlessly expended by US citizens, divisions within the affected communities and families, a false lease approval by the BIA, and the victorious lawsuit by *Nulankeyutomonon Nhitahkomikumon* v. the BIA that followed — all for nothing. (*Nulankeyutomonon Nhitahkomikumon* = "We Take Care of the Land," the Passamaquoddy tribal members of the Save Passamaquoddy Bay 3-Nation Alliance.)

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S-NA43

Calais LNG

The proposal by Calais LNG at Red Beach, Calais, Maine, abutting Devil's Head Conservation Area, went through a similar process. It consumed fewer years — nonetheless, wasted years — with FERC finally dismissing Calais LNG from permitting. Again, public effort, many thousands of dollars expended by US citizens, and divisions between communities and families. At the eleventh hour ahead of Maine's Board of Environmental Protection scheduled permits hearing, Calais LNG withdrew from the process. Calais LNG had hid from Maine and FERC their actual reason for their withdrawal — they had lost their Goldman Sachs financial backer, GS Power Holdings, and had lost their option to purchase the project site. Almost simultaneously, Goldman Sachs had announced to the world that LNG exporting — not importing — was the place to invest. Goldman Sachs had already invested \$25 million in the doomed project. Again, dishonesty played a role in the Calais LNG project — all for nothing.

Downeast LNG

Now here we are, with Downeast LNG still in the FERC permitting process after eight (8) years of permitting delays, re-dos, impossibilities; and Maine permitting failure and withdrawal.

Yet, FERC keeps the application alive.

As was previously posted to the docket, Downeast LNG withdrew from the Maine permitting process in 2007, shortly after the week-long quasi-judicial Maine Board of Environmental Protection hearing. It became clear during the hearing that Downeast LNG could not meet the permitting demands. Then, in 2013, Downeast LNG president Dean Girdis stated to the press that his company does not intend to re-enter the state permitting process.

Nonetheless, FERC continues to facilitate Downeast LNG dragging the permitting process down a dead-end road.

Save Passamaquoddy Bay recently commented to the docket listing why FERC should dismiss Downeast LNG's applications. Downeast LNG...

1. Refuses to recognize Native American rights in the impacted waterway;
2. Has denigrated FERC permitting to industry members in another country;
3. Would create unnecessary negative environmental and economic impacts;
4. Violates its own industry's terminal siting best safe practices (SIGTTO);
5. Cannot ensure safe and secure vessel transits in Head Harbour Passage and Canadian portions of the Bay of Fundy and Passamaquoddy Bay;
6. Cannot satisfy PHMSA vapor dispersion Exclusion Zone requirements;
7. Cannot satisfy PHMSA thermal radiation Exclusion Zone requirements;
8. Cannot ensure safety and security of the proposed marine piping trestle due to Maine's prescriptive use law giving the public unrestricted use of the proposed terminal's entire intertidal zone. That shoreline is also a Passamaquoddy Tribe

S-NA43

cultural sacred site, from the head of Mill Cove to Pulpit Rock south of the proposed Downeast LNG terminal property;

9. Violates Maine's 1000-foot pier length restriction by more than one-half mile;
10. Does not intend to re-enter Maine state permitting; and
11. **Has no ability to receive LNG by ship due to Canada's sovereign prohibition against such transits.**

FERC has a legal obligation to cease wasting valuable public resources on a project that does not qualify for permitting. Dismiss Downeast LNG.

S-NA43-1

FERC has continued to ignore that all three LNG terminal proposals in Passamaquoddy Bay have faced an insurmountable obstacle. No amount of stonewalling, denial, ignoring, or wishing can change the lack of standing of the United States of America regarding the innocent passage provision of the UN Convention on the Law of the Sea (UNCLOS). The US has no right, standing, or ability to challenge Canada's steadfast prohibition against LNG ship transits through Canada's Head Harbour Passage and waters in Passamaquoddy Bay.

The US Department of State has perpetrated fraud, to which FERC, the Coast Guard, and PHMSA have been complicit; every one of those agencies knows that the US has no membership in the UNCLOS treaty; thus has no treaty-defined right of innocent passage. Nonetheless, those parties have proceeded with permitting, ignoring their legal obligation to the American public. They have cavalierly wasted taxpayer's money, energy, and trust by falsely dragging along the permitting process — especially now, with Downeast LNG.

Citizens who can read and comprehend our rights expect governmental agencies to act within the law, as their charters and missions dictate and demand. We have a right to have expected FERC, the Coast Guard, and PHMSA to have dismissed all three Passamaquoddy Bay LNG applicants in 2006 when Canada announced its LNG transit prohibition.

US government and its agencies and departments have no legal authority to override Canada's prohibition of LNG transits into Passamaquoddy Bay.

A decade of waste is enough. Dismiss Downeast LNG's project immediately. It is FERC's responsibility to do so, and our right to expect it be done now.

Linda Cross Godfrey, Coordinator
Save Passamaquoddy Bay

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List

S-NA43-1 We recognize there are concerns relating to LNG vessel passage through Canadian waters. However, the FERC has a legal obligation to continue processing Downeast's application so that all the issues can be properly documented before the Commission makes a decision on the proposal. See response to comment NA4-217.



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S-NA44

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2013 Dec 27

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Letter to Maine's Federal Delegation**

Dear Ms. Bose,

Attached is Save Passamaquoddy Bay's 2013 December 27 email letter to Maine Senator Susan Collins. The same letter was sent to all four of Maine's federal delegation (Sen. Collins, Sen. Angus King, Rep. Mike Michaud, and Rep. Chellie Pingree) regarding Downeast LNG's lack of legal standing for FERC permitting. It also describes dishonesty and fraud by LNG applicants, US Department of State, FERC, the US Coast Guard, and the US Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA).

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List

S-NA44 Robert Godfrey, Save Passamaquoddy Bay

S-NA44

From: Robert Godfrey <info@savepassamaquoddybay.org>
Subject: **Save Passamaquoddy Bay's 12/27 comment to FERC Downeast LNG docket**
Date: 2013 December 27 1:56:56 AM EST
To: Carol Woodcock <carol_woodcock@collins.senate.gov>

► 1 Attachment, 148 KB

Dear Sen. Collins,

Attached is Save Passamaquoddy Bay's December 27 comment filing to the FERC Downeast LNG docket. The filing points to multiple instances of dishonesty by three developers and several federal agencies during the 10-year attempt to site LNG import terminals in Passamaquoddy Bay.

The last remaining proposal, Downeast LNG, does not qualify for FERC permitting due to the company's inability to receive LNG by ship. Downeast LNG and the Department of State wrongfully assert that LNG ships have the right of innocent passage through sovereign Canadian waters to the proposed terminal — even though they know that the US is not a party to the UN Convention on the Law of the Sea (UNCLOS) that codifies innocent passage; and they know that UNCLOS treaty rights inure only to parties to the treaty. Absent UNCLOS rights, the coastal state — Canada — determines what is innocent and what is not. Canada has determined LNG transits into Passamaquoddy Bay are non-innocent, and are prohibited.

Additionally, Congress requires the Coast Guard to vet LNG transit waterways, and to either deny or allow transits, and vests authority in the Coast Guard to deny LNG transits in those waterways (or, as in this case, to deny ships' entry into US waters from those Canadian waters), even on an *ad hoc* basis. **The Coast Guard has twice made judgments of the Canadian waterway** required for LNG transits to the proposed Downeast LNG terminal.

The Department of State hypocritically takes the position that the US has the authority to judge Canadian waterways for LNG transits, and to disallow transits — **but that Canada does not have that same right.**

FERC, the Coast Guard, and the Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) are aware that the

S-NA44-1 See response to comment S-NA43-1.

S-NA44

Department of State's claim of innocent passage for LNG into Passamaquoddy Bay is without merit, but have failed to blow the whistle. They are all complicit in a fraud intended to favor specific private business at the wrongful expense to US taxpayers — private business that would unnecessarily put US citizens in harm's way of Sandia National Laboratories-defined 2.2-mile-radius LNG ship Hazard Zones during each and every LNG ship transit to and from the proposed terminal. (Every resident of Eastport and Sipayik/Passamaquoddy Pleasant Point Reservation, plus citizens from several other US and Canadian communities, would fall within that Hazard Zone.)

S-NA44-1
cont'd

Downeast LNG has no legal standing in international court regarding innocent passage; and, since Canada prohibits LNG transits to the proposed terminal, Downeast LNG cannot receive the very LNG required for the project. Downeast LNG's applications should have been dismissed from FERC permitting in 2006 when Canada issued its prohibition. **FERC must dismiss Downeast LNG from permitting.**

Very truly,

Robert Godfrey
researcher, news aggregator & webmaster
Save Passamaquoddy Bay 3-Nation Alliance
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[downeast In...pdf \(148 KB\)](#)

S-NA45



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Kimberly D. Bose, Secretary
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888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2014 Jan 13

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
2013 Comment Filing Summary**

Dear Ms. Bose,

Since March of 2006, Save Passamaquoddy Bay has been providing evidence to FERC that Downeast LNG does not qualify for permits to construct an LNG terminal at Mill Cove, Robbinston. Because of all of this evidence, and the following facts, **Save Passamaquoddy Bay believes that Downeast LNG does not qualify for the permitting process, and is incapable of fulfilling FERC LNG permitting requirements.** The most obvious facts that lead to this conclusion follow.

It is incumbent on FERC staff and Commissioners to guarantee that Downeast LNG legitimately qualifies for FERC permitting. Save Passamaquoddy Bay alleges that FERC continues to violate this legal obligation.

In July of 2007, Downeast LNG was the focus of a formal quasi-judicial hearing before the Maine Board of Environmental Protection (BEP). After the week-long hearing, and the BEP's followup requirements which Downeast LNG could not meet, the company withdrew its applications from state permitting. In over 6 years, Downeast LNG has not reapplied to the state, and in late 2013 Downeast LNG president Dean Girdis stated in a newspaper interview that he did not intend to reapply for state permits.¹ Without possessing Maine permits, Girdis cannot construct and operate an LNG terminal. What, then, is the point of his pursuit of FERC permits? By our evidence and Girdis's own admission, he has disqualified Downeast LNG from the federal permitting process he has dragged out for years.

The fact that Downeast LNG is the only remaining shore-side LNG import terminal applicant in the FERC process, where once there were scores of projects, is telling. Many other projects had much stronger proposals, more experience in the gas and oil indus-

¹ Accession No. 20131126-5129, http://elibrary.ferc.gov/idmws/file_list.asp?document_id=14165007

S-NA45-1

S-NA45 Robert Godfrey, Save Passamaquoddy Bay

S-NA45-1 Downeast stated that it would submit its Maine DEP application after issuance of the final EIS. Downeast would be responsible for obtaining any permits and authorizations necessary for construction and operation of its project.

S-NA45

try, and faced fewer complicated or insurmountable issues than Downeast LNG. Why, then, does Downeast LNG continue to pursue FERC permitting?

Save Passamaquoddy Bay hereby summarizes its 40 comments filed to the docket in 2013.

Date	Accession No.	Description
2013 Mar 01	20130228-5395	Canaport LNG winter output down 42% over a year ago.
2013 Mar 21	20130321-5053	US Department of State, USCG, and FERC Fraud.
2013 Mar 22	20130322-5154	Name correction to 20130321-5053 filing.
2013 May 13	20130513-5040	Chief Akagi letter to USCG.
2013 May 14	20130513-5054	Homes in the Hazard Zone.
2013 May 16	20130516-5009	FERC recognizes unconfined vapor explosions.
2013 May 17	20130517-5005	Passamaquoddy Nation disapproves of Downeast LNG.
2013 May 17	20130520-5007	Venart Thermal Radiation report delayed.
2013 May 18	20130520-5010	Comments on Supplementary DEIS.
2013 May 24	20130524-5114	Allision vapor cloud violation.
2013 Jun 12	20130612-5085	Re FERC to NOAA on "No Impact on Endangered Species."
2013 Jun 14	20130614-5128	NEPA and health, safety, and culture re Passamaquoddy Nation.
2013 Jun 20	20130620-5037	Fishermen testimony to BEP.
2013 Jun 20	20130620-5038	Terminal siting issues and testimony to BEP.
2013 Jun 20	20130620-5039	Whole Bay Study.
2013 Jun 21	20130621-5016	SFB response to Wellinghoff letter to Canada Ambassador.
2013 Jul 02	20130702-5036	Study on dredging impact on marine mammals.
2013 Jul 09	20130709-5032	Lessons in Canada sovereignty history.
2013 Jul 23	20130723-5094	Downeast LNG fails the public interest requirement; Neptune suspended.
2013 Aug 30	20130830-5194	SFB Challenges FERC Bio Assessment request to NOAA.
2013 Sep 17	20130917-5022	7 Ways Downeast LNG Violates the Public Interest.
2013 Sep 18	20130918-5017	Bird kill from LNG terminal natural gas flare.
2013 Sep 23	20130923-5093	Downeast LNG failure to meet PHMSA exclusion zone regulations.
2013 Sep 25	20130925-5095	Downeast LNG disparages FERC to Canada.
2013 Sep 26	20130926-5008	Downeast LNG bait and switch.
2013 Sep 27	20130927-5013	FERC guilt by silence.
2013 Sep 30	20130930-5075	Downeast LNG flawed Revised Vapor Dispersion Modeling.
2013 Oct 04	20131004-5095	Ignition source in intertidal zone.
2013 Oct 15	20131015-5373	33 CFR §127 Violations in intertidal zone — smoking, fire, access.
2013 Oct 17	20131017-5018	FERC 2013-2014 Winter Energy Report.
2013 Oct 29	20131029-5119	FERC testimony to Congress — Downeast LNG lack of public interest.
2013 Nov 01	20131101-5190	Downeast LNG mockery of FERC process.
2013 Nov 18	20131118-5161	Expeditionessness & Innocent Passage fraud.
2013 Nov 25	20131125-5145	SFB re Maine exporting natural gas to Canada.
2013 Nov 26	20131126-5129	SFB re Downeast LNG admits lack of economic viability.
2013 Dec 02	20131202-5129	Canaport LNG authorized to export.
2013 Dec 18	20131218-5019	Marcellus booming; Downeast LNG violates public interest.
2013 Dec 19	20131219-5025	PNCST expands pipeline capacity.
2013 Dec 20	20131220-5003	Eastern Maine exports natural gas to Canada.
2013 Dec 27	20131227-5008	Downeast LNG lacks legal standing.

US Congress requires the Coast Guard (USCG) to prohibit transits (even on an *ad hoc* basis) to US ports through waterways — including foreign waterways — it deems unsuitable for LNG transits. The USCG has exercised that authority *twice* regarding Canada's Head Harbour Passage and Canadian portions of Passamaquoddy Bay. Therefore, Canada has that same sovereign decision-making right *over its own waters*.

S-NA45-2

S-NA45 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA45-2 See response to comment NA4-217.

S-NA45

Department of State fiction regarding innocent passage in Canada's sovereign waters does not alter reality and FERC's obligations to the American public. FERC's first duties are to truth and to the public.

S-NA45-2
cont'd

It is clear that Downeast LNG has no right of innocent passage through sovereign Canadian waters that have a declared prohibition against LNG transits. And, the US has no international legal standing to challenge Canada's sovereign prohibition — a right of prohibition/permission that even the US has exercised *twice* in this proceeding.

It is clear that Downeast LNG cannot secure the marine trestle from ignition sources, and that the integrity of the proposed vapor barriers along the trestle cannot be assured in the event of a ship or aircraft allision, or an explosive device; thus, Downeast LNG cannot satisfy the USDOT PHMSA terminal vapor dispersion Hazard Zone requirement. A Downeast LNG tank-top fire cannot satisfy the PHMSA Hazard Zone requirement.

It is abundantly clear that Downeast LNG violates the public interest, cannot qualify for permits, and should not even be in the FERC permitting process.

S-NA45-3

For all the above reasons, FERC is legally obligated to dismiss Downeast LNG's applications.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List

S-NA45 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA45-3 The FERC will continue processing Downeast's application so that all the issues can be properly documented before the Commission makes a decision on the proposal. Downeast would be responsible for obtaining any permits and authorizations necessary for construction and operation of its project.

20140131-5032 FERC PDF (Unofficial) 1/31/2014 8:02:39 AM

S-NA46



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888 First Street, NE Room 1A
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eFiled on 2014 Jan 31

Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001

Dear Ms. Bose,

Downeast LNG filed to the docket on January 31 (Accession Nos. 20140130-5363 and 20140130-5364), providing information requested by PHMSA. The filing was submitted as being proprietary and confidential, and thus is not accessible by the public. Following is the list of items submitted in that filing.

S-NA46-1

- Appendix A DELNG DOT Table(P&C)
- PHMSA Data Request Response(P&C)
- Appendix B - PFDs(P&C)
- Appendix G - Plot Plan(P&C)
- Appendix D - P&IDs(P&C)
- Appendix E - Equipment Vendor Information(P&C)
- Appendix F - Tank and Trestle Elevations(P&C)
- Downeast LNG, Inc., Appendix C - HMBs(P&C).

Save Passamaquoddy Bay challenges the appropriateness of confidential status on the entirety of information submitted by Downeast LNG in the above filings, and asks that FERC recategorize them as Public.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List

S-NA46-1 Downeast filed a summary of the design spill information provided to PHMSA in Accession 20140211-5130 as public information.



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S-NA47

January 31 2014

Kimberly D. Bose, Sec.
FERC
888 First Street, N.E. Room 1A
Washington, DC 20426

RE: Downeast LNG, Inc. Docket No. CP07-52-000; CP07-53-000; CP07-53-001

Dear Ms. Bose:

Save Passamaquoddy Bay members Richard and Katherine Berry, who live in Robbinston Maine, and whose home would be adversely impacted by the proposed Downeast LNG terminal — especially by violation of the applicant's vapor dispersion Exclusion Zone, visual impact, and conflicting use of the waterway — object to Downeast LNG's recent Non-Public filing (Accession Nos. 20140130-5363 and 20140130-5364). Much, if not all, of the Downeast LNG filing does not qualify for Non-Public status. The Berrys request FERC to reclassify those accessions as Public.

S-NA47-1

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List

S-NA47 Robert Godfrey, Save Passamaquoddy Bay

S-NA47-1 See response to comment S-NA46-1.

S-NA47

Kimberly D. Bose, Sec.
FERC
888 First Street, N.E. Room 1A
Washington, DC 20426

RE: Downeast LNG, Inc. Docket No. CP07-52-000; CP07-53-000; CP07-53-001

Dear Ms. Bose:

With regard to FERC's Jan. 30, 2014 filing from Downeast LNG in which Downeast LNG is saying that their whole submission of information that they had made to the Pipeline & Hazardous Materials Safety Administration should be filed as confidential & proprietary information.

WE, as landowners, residents, and stakeholders of this Proposed Project, firmly object to Downeast being allowed this confidential & proprietary treatment. The public has a right to know what is going on that so adversely effects the lives of so many People.

We respectfully request that the FERC reclassify as public these submissions from the DELNG as referenced above.

Thank You.

Richard E. & Katherine A. Berry
22 Sea View Lane
PO Box 8
Robbinston, ME 04671
Cathancelk@aol.com

S-NA47 Robert Godfrey, Save Passamaquoddy Bay (continued)

S-NA48



Save Passamaquoddy Bay

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Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2014 Feb 5

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Contempt of Public Interest**

Dear Ms. Bose,

On 2014 Jan 30, Downeast LNG filed data to the docket that had been requested by PHMSA. Downeast LNG filed the data as "Privileged and Confidential," non-public filings; therefore, the public cannot access the filing's contents. Downeast LNG knows full well that the some — if not all — contents of the filing **do not qualify for Privileged and Confidential treatment**.

FERC claims that its permitting process is transparent. Quite the contrary, FERC allows Downeast LNG's repeated Privileged and Confidential filing abuse with impunity, requiring detection by the public before it is corrected; thus, demonstrating that the FERC process is in these instances opaque, not transparent, **in violation of the public interest**

Downeast LNG has...

- Repeatedly, with impunity, violated the Privileged and Confidential, and Non-Public docket filing requirements in attempts to prevent public scrutiny [1, 2, 3, 4, 5, 6], **demonstrating contempt of public interest**;
- Previously **demonstrated contempt of the FERC permitting process** to LNG industry members at a conference in Canada[7, 8];
- Ignored its own industry terminal siting best safe practices (SIGTTO) in choosing its project site, **demonstrating contempt of industry best practices and of public safety interest**[9];
- Refused for 7 years to re-enter the state permitting process, knowing it cannot qualify for permits, and announced it does not intend to re-enter Maine permitting; thus, dragging on with federal permitting, **demonstrating contempt of public interest**[10];
- Neglected (and FERC has neglected) to consider heavy metal toxic contamination from marine construction activities, that would adversely affect health of human consumers and the food web, including protected species, **demonstrating contempt of public interest**[11];

S-NA48-1

S-NA48 Robert Godfrey, Save Passamaquoddy Bay

S-NA48-1 See response to comment S-NA46-1 and NA4-217.

S-NA48 Robert Godfrey, Save Passamaquoddy Bay (continued)

20140205-5009 FERC PDF (Unofficial) 2/5/2014 12:18:20 AM

S-NA48

- Continues to push for importing LNG from overseas, when the US is drowning in domestic natural gas, **demonstrating contempt of public interest**^[12];
- Determined to pick a fight an unwinnable "innocent passage" battle with Canada^[13] over banned LNG transits in the Canadian waterway, wasting taxpayer and citizen resources, **demonstrating contempt of public interest and disqualifying Downeast LNG from the permitting process.**

UNCLOS makes it clear what countries are affected by the treaty:

PART I, Article 1, 2. (1) "States Parties" means States which have consented to be bound by this Convention and for which this Convention is in force.^[14]

Since the U.S. hasn't "consented to be bound by" (Congress hasn't ratified) UNCLOS, then **the Convention is not in force for the U.S.; the U.S. has no rights or responsibilities under UNCLOS.**

The treaty clearly states that the U.S. does not have the right of innocent passage under UNCLOS.

US Coast Guard lawyer agrees local LNG projects have no UNCLOS innocent passage:

"Without being a party to the Law of the Sea Convention, we cannot avail ourselves of the dispute-resolution provisions," [said US Coast Guard Capt. Charles Michel, Chief, Office of Maritime and International Law].^[15]

It is abundantly clear that — time after time — Downeast LNG abuses the public interest, and does not qualify even for participating in the permitting process. FERC must dismiss Downeast LNG.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List

¹ Docket No. PF06-13, Draft Resource Report 2: Water Use & Quality; Accession Nos. 20060814-0003, 20060814-0005.

² *Op. cit.*, Draft Resource Report 3: Fish and Wildlife and Vegetation; Accession Nos. 20060907-0205, 20060907-0207, 20060907-0208.

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S-NA48

³ *Op. cit.*, Draft Resource Report 8: Land Use, Recreation and Aesthetics; Accession Nos. 20060907-0209, 20060907-0210, 20060907-0211, 20060907-0212.

⁴ *Op. cit.*, Draft Resource Report 9: Air and Noise Quality; Accession No. 20061024-0007.

⁵ *Op. cit.*, Draft Resource Report 10: Alternatives; Accession Nos. 20061003-0176, 20061026-0065.

⁶ Docket No. CP07-52, Accession Nos. 20090413-5147, 20140130-5364.

⁷ *Op. cit.*, "Downeast LNG Falsely Blames US Government at Canada LNG Export Forum," Accession No. 20130925-5095.

⁸ *Op. cit.*, "Downeast LNG president Dean Girdis blames FERC process for permitting failings," Accession No. 20130925-5095.

⁹ Docket No. PF06-13, "Downeast LNG's proposed project violates numerous SIGTTO best practices standards," Accession No. 20060309-5002.

¹⁰ "Future of Canaport, Downeast LNG in question," The Quoddy Tides, 2013 Mar 22, http://quoddytides.com/canaport_downeast_lng3-22-13.html

¹¹ Docket No. CP07-52, "Riverbed Toxins Supplemental Information," Accession No. 20120917-5042.

¹² Downeast LNG website, <http://downeastlng.com/>

¹³ UN Convention on the Law of the Sea (UNCLOS), http://www.un.org/depts/los/convention_agreements/convention_overview_convention.htm

¹⁴ *Op. cit.*, Article 1, Use of terms and scope, 2.(1), http://www.un.org/Depts/los/convention_agreements/texts/unclos/part1.htm

¹⁵ "U.S. Coast Guard Officer Claims Canadian PM Disregarded President Bush's Request for LNG Tanker Passage," LNG Law Blog, 2007 Dec 12, <http://www.lnglawblog.com/2007/12/u-s-coast-guard-officer-claims-canadian-pm-disregarded-president-bushs-request-for-lng-tanker-passage/>

20140204-5068 FERC PDF (Unofficial) 2/4/2014 12:54:30 PM

S-NA49



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Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2014 Feb 5

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Impoundment Basins and Tank-top Fires**

Dear Ms. Bose,

In response to Downeast LNG's 2014 Feb 3 docket filing (Accession No. 20140203-5244), Save Passamaquoddy Bay points out that increasing capacity of impoundment basins does not mitigate thermal radiation Exclusion Zone violations as has previously been indicated could occur from a tank-top fire.¹

S-NA49-1

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List

¹ Accession No. 20130524-5097

S-NA49-1 Increasing the capacity of the spill impoundments by deepening them will not change the thermal radiation calculations. For previous comments regarding a tank-top fire, please see response to S-NA9-1.

S-NA50



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Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2014 Feb 5

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
"Project Expansion" PHMSA wording error**

Dear Ms. Bose,

On 2014 Feb 3, PHMSA filed to the docket (Accession No. 20140203-4005) regarding data and methodology submitted by Downeast LNG on eight (8) FERC data request questions dating as far back as 2009 (over 4 years ago). PHMSA's filing contained the following wording:

*"Based on our review of the above-listed documents, PHMSA has no objection to Downeast's methodology for determining candidate design spills to establish the required siting for its **proposed expansion to its LNG plant facilities**. If Downeast's design or operation of the facility differs from the details provided in these documents, then the design spills may not comply with the siting requirements in Part 193 and NFPA 59A."* [Bold emphasis added.]

Save Passamaquoddy Bay conducted a telephone conversation on 2014 Feb 5 with PHMSA's Kenneth Lee (Director of Engineering and Research, Office of Pipeline Safety), enquiring about the stated "proposed expansion". Mr. Lee indicated that the wording was an editorial error — it had been taken from a Freeport LNG document, and inserted into the Downeast LNG document, without correcting the text to conform to the actual Downeast LNG circumstances.

There is no proposed expansion of the Downeast LNG project.

Save Passamaquoddy Bay adds that there is also no realistic expectation that Downeast LNG can ever receive LNG by ship, due to Canada's incontrovertible prohibition of such transits; therefore, there is no real project.

FERC must dismiss Downeast LNG from permitting.

S-NA50-1

S-NA50 Robert Godfrey, Save Passamaquoddy Bay

S-NA50-1 FERC staff has noted the same typographical error. With regard to LNG vessel passage, we recognize that Canada has concerns relating to LNG vessel passage through its waters. However, the FERC has a legal obligation to continue processing Downeast's application so that all the issues can be properly documented before the Commission makes a decision on the proposal. See response to NA4-217.

S-NA50

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List

S-NA50 Robert Godfrey, Save Passamaquoddy Bay (continued)

20140211-5025 FERC PDF (Unofficial) 2/11/2014 12:17:07 AM

S-NA51



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888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2014 Feb 11

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Maritimes and Northeast Pipeline direction reversal**

Dear Ms. Bose,

On 2014 February 5, Spectra Energy announced it is planning to reverse direction of its Maritimes and Northeast Pipeline system, sending abundant US natural gas north to New England and the Canadian Maritimes.¹

S-NA51-1

Since Downeast LNG's application is to ship natural gas south to the Northeast Region of the US, there will no longer be any means of transport for the applicant's natural gas. Since the market will be unattainable—not to mention, otherwise satisfied—there is no realistic need for the Downeast LNG project.

Please dismiss Downeast LNG from permitting.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List

¹ "Spectra Energy to expand pipeline systems in New England," Spectra Energy, 2014 Sep 5, [Spectra Energy to expand pipeline systems in New England](#)

S-NA51-1 The project's need will be considered by the Commission in its determination whether or not to authorize the project.

20140214-5139 FERC PDF (Unofficial) 2/14/2014 3:26:51 PM



Save Passamaquoddy Bay

S-NA52

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eFiled on 2014 February 14

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Anti-Public Interest**

Dear Ms. Bose,

When Downeast LNG began its FERC permitting, it was already a surplus project. Canaport LNG was 5½-6 years ahead in development; and Northeast Gateway Deepwater Port and Neptune LNG Deepwater Port were also years ahead in development. Everett LNG was continuing to provide LNG imports. Canaport, Northeast Gateway, and Neptune were constructed and commissioned. Those four terminals' combined capacity was enough to satisfy the regions' incremental needs.

But now, Neptune LNG has been taken out of service for lack of need, Northeast Gateway has had no imports for over two years, and Canaport LNG has been losing money due to lack of market in the Northeast. Everett LNG has had steadily decreasing imports, importing mainly to satisfy long-term contracts. Canaport has recently obtained approval to re-export LNG. Prior to obtaining that authorization, Canaport was predicted by Bentek Energy to receive just five LNG shipments in 2014, primarily to keep the terminal operational.¹

Downeast LNG has falsely argued on the docket that the region's existing terminals cannot obtain LNG shipments during winter periods of peak usage. Save Passamaquoddy Bay previously demonstrated on the docket that the contrary is true. In fact, Canaport LNG just received a shipment in late January of this year.

Now, Maritimes and Northeast Pipeline has announced it is planning to reverse direction of flow, to ship prolific domestic supply from the Northeast to New England and the Canadian Maritimes (see attached file, [02_pipeline_reversal.pdf](#)). Additionally, the six New England states are working to build pipeline capacity from the Marcellus to New

S-NA52-1

S-NA52-1 The project's need will be considered by the Commission in its determination whether or not to authorize the project.

¹ "Canaport weighs LNG imports," The Quoddy Tides, 2013 Dec 13,
<http://quoddytides.com/canaport12-13-13.html>

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S-NA52

England. These events present an insoluble obstacle to Downeast LNG's public interest requirement.

S-NA52-1
cont'd

For eight years, Canada has held fast its prohibition against LNG ship transits through Head Harbour Passage to the proposed Downeast LNG terminal, disqualifying the project from viability. Now, Maritimes and Northeast Pipeline is planning to reverse direction of flow. **Downeast LNG not only cannot receive LNG by ship, it cannot ship natural gas to its designated market. It is a project without a need or purpose.**

Downeast LNG began as a boondoggle, and has spiraled downward well beyond the point of incredulity.

Downeast LNG is obviously public-interest adverse. FERC must dismiss or deny Downeast LNG's permit applications.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List

S-NA52 Save Passamaquoddy Bay

20140214-5138 FERC PDF (Unofficial) 2/14/2014 3:36:51 PM
Maritimes and Northeast Pipeline owner wants to retrofit pipeline to bring gas from south — Bangor Daily News — BDN Maine

2014/Feb/13 6:16 PM
S-NA52

BDN MAINE Bangor Daily News

Thursday, Feb. 13, 2014 Last update: 6:05 p.m.

Maritimes and Northeast Pipeline owner wants to retrofit pipeline to bring gas from south

 By Whit Richardson, BDN Staff
Follow on Twitter
Posted Feb. 12, 2014, at 5:27 p.m.

The owner of the Maritimes and Northeast Pipeline has announced plans to retrofit its pipeline to allow it to carry natural gas from southern New England into Maine, the opposite direction of the pipeline's original purpose.

Houston-based Spectra Energy, which is majority owner of the Maritimes and Northeast Pipeline, is willing to make the needed investments to make the pipeline "bi-directional" if it can secure the customers to make it economically feasible, Richard Kruse, Spectra's vice president of regulatory affairs, told the Bangor Daily News on Wednesday.

The Maritimes and Northeast Pipeline was built in 1999 to carry natural gas from drilling rigs off the coast of Nova Scotia through Maine and into southern New England. It crosses the border in Baileyville, passing through Brewer, Searsport and Portland before heading south to the Boston area.

It originally was built to carry 800 million cubic feet of gas per day south, but it has been operating on average at half that capacity or less for the last few years because the offshore projects are not yielding as much gas as anticipated, Kruse said. That, coupled with national shifts in the market for natural gas, makes the prospect of reversing the flow of the Maritimes and Northeast Pipeline an attractive option for the company.

While other areas of the country are benefiting from historically low prices for natural gas because of abundant amounts coming from the areas around the Marcellus Formation, Maine has missed out because the existing pipeline infrastructure needed to bring natural gas into New England is not sufficient to meet demand. As a result, industrial users of natural gas — such as paper mills — face rocketing costs, especially during the winter months when demand peaks.

Spectra's multimillion-dollar effort to bring more natural gas into New England, which it's calling the Atlantic Bridge project, would contribute to increasing that capacity and hopefully lowering costs of natural gas in Maine.

The company has announced what's called an "open season," which means it's soliciting interest from potential customers who are willing to enter into contracts for gas that the Maritimes and Northeast Pipeline and the Algonquin pipeline would bring north from the Marcellus Shale and other sources of natural gas in Pennsylvania, Ohio, New York and West Virginia. Besides its Maritimes and Northeast Pipeline, the project also involves the Algonquin Gas Transmission Co.,

<http://bangordailynews.com/2014/02/12/energy/maritimes-and-northeast...wner-wants-to-retrofit-pipeline-to-bring-gas-from-south/?ref=search>

20140214-5138 FERC PDF (Unofficial) 2/14/2014 3:36:51 PM
Maritimes and Northeast Pipeline owner wants to retrofit pipeline to bring gas from south — Bangor Daily News — BDN Maine

2014/Feb/13 6:16 PM
S-NA52

Spectra's pipeline in southern New England.

Kruse said the company has secured an "anchor" customer: Unifil, which is Maine's largest provider of natural gas. Even if no additional customers are secured, Unifil's commitment to buy 100 million cubic feet of gas per day would be enough to go ahead with the project, Kruse said.

Though it's too early to tell, if other customers sign on, that additional capacity could increase to 600 million cubic feet of gas per day.

Pipeline companies are required by the Federal Energy Regulatory Commission to have contracts secured before building new pipelines or expanding existing ones. Spectra would need to receive a certificate from FERC to move forward with the infrastructure improvements required by the Atlantic Bridge project.

The "open season" to recruit additional customers will run until the end of March.

Spectra's announcement was welcomed by Patrick Woodcock, director of the governor's energy office, who has worked with colleagues in other New England states to find a way to increase pipeline capacity into the region.

"I think it really is the first step in a realignment of our natural gas infrastructure to increase utilization of affordable and stable natural gas supplies from domestic resources," Woodcock said Wednesday.

Gov. Paul LePage's administration announced in early December a joint initiative with governors from the other New England states to work together to increase the natural gas pipeline capacity into the region.

Woodcock said Spectra's plans, while good news, wouldn't alone solve Maine's energy problems when it comes to natural gas prices. The plan would expand the amount of natural gas entering New England by at least 100 million cubic feet of gas a day, but Woodcock said his office estimates it would take an increase of at least 1 billion cubic feet a day to significantly reduce natural gas prices in the region.

Beyond the fact that every little bit helps, Woodcock said Spectra's plan is good news because it gets the ball rolling on the regulatory process.

"What is really critical about this decision is it starts the regulatory process and allows the New England states to examine if we can participate in getting the volume up and the capacity to a degree where we really are supplying Maine and New England with low-cost natural gas," said Woodcock.

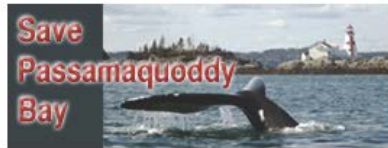
It's too early to tell, but if there's strong response from customers, the Atlantic Bridge project may require the replacement of portions of the Algonquin pipeline with larger diameter pipe to accommodate the flow into New England. However, Kruse said that would not be necessary in Maine, where the Maritimes and Northeast Pipeline is already a larger-diameter pipe. He said the only infrastructure improvements necessary in Maine would be additional compressor stations, but where and how many are questions that won't be able to be answered until they know where the gas is going.

The Atlantic Bridge project would not be completed until 2017.

<http://bangordailynews.com/2014/02/12/energy/maritimes-and-northeast...wner-wants-to-retrofit-pipeline-to-bring-gas-from-south/?ref=search>

20140219-5025 FERC PDF (Unofficial) 2/19/2014 12:59:11 AM

S-NA53



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888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2014 February 18

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Pipeline Constraints Deception**

Dear Ms. Bose,

Downeast LNG deceptively argues that it is needed due to pipeline constraints during periods of high demand in New England. While it is true that pipeline constraints do currently exist, and they prevent demand fulfillment, Downeast LNG presents a hollow argument.

During periods of high demand, transmission pipelines are at capacity, full; they cannot take on more natural gas. Downeast LNG would be in the desperate situation of sitting on large volumes of expensive, imported LNG, with no way to ship it to market — contrary to public interest.

The only real solution to providing more natural gas to New England and Maine is transmission pipeline expansion or development. Downeast LNG is not proposing to do that; thus, Downeast LNG presents no benefit.

Maritimes and Northeast Pipeline System is planning to expand and reverse direction. The six New England states are also planning pipeline development to bring supply from the Marcellus. Doing so will relieve pipeline constraints during periods of high demand, something Downeast LNG cannot do. Downeast LNG has no purpose or need.

FERC must deny Downeast LNG permits.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List

S-NA53-1

S-NA53-1 The Commission staff recognizes the recent and ongoing shale gas developments in the Northeastern U.S. The project's need will be considered by the Commission in its determination whether or not to authorize the project.

20140219-5026 FERC PDF (Unofficial) 2/19/2014 12:55:06 AM

S-NA54



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Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2014 February 18

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Protest**

Dear Ms. Bose,

Save Passamaquoddy Bay strenuously protests FERC's announced schedule for release of the Final EIS (FEIS) and for the Commission's permitting decision.

FERC has allowed Downeast LNG to inappropriately file design spill modeling results as Confidential, keeping them from public and in terven or scrutiny. And subsequently, FERC has scheduled release of the FEIS while intervenors and the public are left in the dark.

We remind FERC that previous Downeast LNG design spill results were Public. Setting the FEIS release date after the Confidential filing places intervenors and the public at severe disadvantage, with no opportunity to peruse and comment on those results.

Even if those results are made Public, the amount of time intervenors and the public have for expert examination of the results has been unfairly reduced prior to FEIS release. FERC is violating its public-interest permitting-transparency requirement.

Save Passamaquoddy Bay requests that FERC delay the FEIS release date by the same number of days that pass from Downeast LNG's Confidential design spill filing until the date those results are made Public.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List

S-NA54-1

S-NA54-1 See response to comment S-NA46-1.

20140219-5018 FERC PDF (Unofficial) 2/19/2014 1:28:17 AM

S-NA55

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Re: Downeast LNG

)

**Docket Nos. CP07-52-000
CP07-53-000
CP07-53-001**

**Motion to Compel Production
of Save Passamaquoddy Bay**

Save Passamaquoddy Bay hereby petitions the Commission to compel Downeast LNG to Publicly produce their complete design spill results that were Confidentially submitted to the docket on 2014 January 30, and were later filed as a simple summary under Accession No. 20140203-5244.

S-NA55-1

- 1) The applicant's initial Design Spill results that failed US DOT vapor dispersion Exclusion Zone requirements were filed Publicly to the docket in 2013. So should the 2014 January 30 results be made Public.
- 2) There is no justification for making the information Confidential and Privileged.
- 3) Lack of Public release places intervenors and the public at severe disadvantage, since we and our experts cannot examine the results for comment.

Therefore, Save Passamaquoddy Bay petitions the Public release of the aforementioned documents.

Respectfully,

/s/ Robert Godfrey
Robert Godfrey
Save Passamaquoddy Bay
PO Box 222
Eastport, ME 04631
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info@savepassamaquoddybay.org

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List

S-NA55-1 See response to comment S-NA46-1.

20140220-5012 FERC PDF (Unofficial) 2/20/2014 12:27:40 AM

S-NA56

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Re: Downeast LNG) Docket Nos. CP07-52-000
CP07-53-000
CP07-53-001

Procedural Motion to Reschedule FEIS Release and Permitting Decision
of Save Passamaquoddy Bay

Save Passamaquoddy Bay hereby petitions the Commission to reschedule the release date of the Downeast LNG Final Environmental Impact Statement (FEIS) and subsequent Commission permitting decision.

S-NA56-1

Downeast LNG improperly filed its final designed release results to the FERC docket as Proprietary and Confidential on 2014 January 30, preventing access by intervenors and the public. Their previous results that failed US DOT PHMSA regulatory requirements were filed Publicly to the docket. There is no valid reason for Proprietary and Confidential treatment of the final results. Intervenors and the public are unfairly prevented from commenting on Downeast LNG's results, and on US DOT PHMSA approval of those results.

Save Passamaquoddy Bay petitions the Commission to delay FEIS release by the same number of days that pass between Downeast LNG's Confidential results filing and the eventual Public release date of those results; thereby, also delaying the Commission's permitting decision that is dependent on the FEIS release date.

Respectfully,

/s/ Robert Godfrey
Robert Godfrey
Save Passamaquoddy Bay
PO Box 222
Eastport, ME 04631
(207)853-2922
info@savepassamaquoddybay.org

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List

S-NA56-1 FERC staff does not plan to reschedule the release of the final EIS. See response to comment S-NA46-1.

20140228-5165 FERC PDF (Unofficial) 2/28/2014 1:17:33 PM

S-NA57



Save Passamaquoddy Bay

A 3-Nation Alliance
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Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE Room 1A
Washington, DC 20426

eFiled on 2014 February 28

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001
Downeast LNG False Logic**

Dear Ms. Bose,

Downeast LNG has provided an incomplete response (Accession No. 20140228-5009) to FERC's 2014 Feb 06 data request. In that response, Downeast LNG uses fatally flawed logic in attempting to justify the project, and has not provided answers to some FERC questions.

Data Request No. 1 — re Pipeline Transport

Downeast LNG's Response

In its own words, Downeast LNG indicates it has not contracted pipeline capacity; that it *plans* to contract natural gas capacity on the Maritimes and Northeast Pipeline to deliver natural gas during peak demand, relieving demand and reducing price during those periods.

Reality

Since the Maritimes and Northeast Pipeline is at full capacity during periods of peak demand, there would be no spare capacity to accommodate Downeast LNG's natural gas precisely during the periods Downeast LNG claims its project is needed. Since Downeast LNG cannot provide natural gas to New England and Maine during periods of peak-demand pipeline constraint, **Downeast LNG has no valid purpose or need.**

Data Request No. 2 — re Changes to Market

Downeast LNG's Response

Downeast LNG points to continued high spot prices for natural gas in New England during periods of peak demand due to continued pipeline constraints.

Reality

The same reality exists here as in Data Request No. 1: Market prices are affected by constraints in pipeline capacity — constraints that prevent Downeast LNG's proposed

S-NA57-1

S-NA57-1 The Commission staff will evaluate the adequacy of Downeast's response to the February 6, 2014 data request. The project's need will be considered by the Commission in its determination whether or not to authorize the project.

S-NA57

project from supplying relief to New England market prices. **Downeast LNG has no valid purpose or need.**

Data Request No. 4 — re Terminal Capacity Agreements

Downeast LNG's Response

Downeast LNG indicates that it has no terminal capacity agreements with potential terminal users.

Reality

Downeast LNG is unable to acquire terminal capacity agreements since it has no probability of acquiring customers — again, since Downeast LNG would be unable to send out natural gas during periods of high demand. **Downeast LNG project has no valid purpose or need.**

Data Request No. 6 — re Revised Transportation Rates

Downeast LNG's Response

Downeast LNG has not still not provided the requested data.

Reality

Despite what Downeast LNG may provide in the future as revised transportation rates, since Downeast LNG would be unable to transport its natural gas on the Maritimes and Northeast Pipeline during peak-demand periods, the transportation rates are irrelevant. **Downeast LNG has no valid expectation of transportation ability; thus, has no valid purpose or need. Additionally, Downeast LNG has still not fulfilled this permitting requirement.**

Data Request No. 7 — re AFUDC

Downeast LNG's Response

Downeast LNG claims it will fulfill this requirement later.

Reality

Downeast LNG has still not fulfilled this permitting requirement.

Data Request No. 8 — re AFUDC as a component of the pipeline

Downeast LNG's Response

Downeast LNG claims it will fulfill this requirement later.

Reality

Downeast LNG has still not fulfilled this permitting requirement.

Downeast LNG has not yet complied with FERC permitting requirements. **FERC should postpone the scheduled Final EIS release and the Commission's permitting decision until after Downeast LNG has fulfilled its permitting requirements.**

Downeast LNG's responses to FERC's data request attempt to disguise the applicant's fatally flawed project. Downeast LNG cannot provide natural gas during periods of peak demand precisely due to the very pipeline constraints it claims it would ameliorate.

S-NA57-1
cont'd

S-NA57-2

S-NA57-3

S-NA57-2 The Commission staff will evaluate the adequacy of Downeast's response to the February 6, 2014 data request.

S-NA57-3 FERC staff does not plan to reschedule the release of the final EIS. The project's need will be considered by the Commission in its determination whether or not to authorize the project.

20140228-5165 FERC PDF (Unofficial) 2/28/2014 1:17:33 PM

S-NA57

Downeast LNG intrinsically has no valid purpose or need, and must be dismissed from permitting, or its permits denied.

Very truly,

Robert Godfrey
Researcher & Webmaster

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List

S-NA58

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Re: Downeast LNG)

Docket Nos. CP07-52-000
CP07-53-000
CP07-53-001

Motion to 'Reschedule FEIS Release and Permitting Decision
Due to Incomplete Application'
of Save Passamaquoddy Bay

Save Passamaquoddy Bay hereby petitions the Commission to reschedule release of the Final Environmental Impact Statement (FEIS) and the Commission's Final Permitting Decision due to incomplete application.

S-NA58-1

Downeast LNG has not completed its permit application requirements as indicated in its 2014 February 28 filing to the docket¹ in response to FERC's 2014 February 06 data request.² And yet, knowing the application requirements are still not complete, FERC scheduled release of the FEIS and the Commission's Final Permitting Decision deadline.³

Downeast LNG entered formal FERC permitting in 2009 after completing Prefiling that it entered in 2006. In 2005 the domestic natural gas market began to reverse. Three Northeast LNG import terminals (Canaport LNG, Northeast Gateway, and Neptune LNG) were far ahead of Downeast LNG, already mooted the project. Postponing the scheduled FEIS release and Permitting Decision would create no undue hardship.

Save Passamaquoddy Bay petitions FERC to postpone FEIS release and the related Final Permitting Decision until Downeast LNG has fulfilled its application requirements.

Respectfully,

/s/ Robert Godfrey
Robert Godfrey
Save Passamaquoddy Bay
PO Box 222
Eastport, ME 04631
(207)853-2922
info@savepassamaquoddybay.org

¹ Accession No. 20140228-5009.

² Accession No. 20140206-3032.

³ Accession No. 20140212-3019.

S-NA58-1 FERC staff does not plan to reschedule the release of the final EIS. See response to comments S-NA57-1, S-NA57-2, and S-NA57-3.

20140228-5204 FERC PDF (Unofficial) 2/28/2014 2:07:46 PM

S-NA58

CC: Sen. Angus King
Sen. Susan Collins
Rep. Mike Michaud
Rep. Chellie Pingree
Service List



S-LA1

TOWN OF SAINT ANDREWS

May 15, 2013

Kimberly D. Bose, Secretary
Federal Regulatory Commission
888 First Street NE Room 1A
Washington, DC 20426

Dear Ms. Bose:

Re: Downeast LNG CP07-52-000, CP07-53-000, CP07-53-001

The Council of the Town of Saint Andrews, New Brunswick would like to submit this letter to reiterate our concerns and opposition to the establishment of a Liquefied Natural Gas plant as proposed by Down East LNG at Robbinston, Maine.

Figure 25 of the Marine Transit Route M50, international breach scenario, clearly indicates that much of the Town of Saint Andrews would be affected, should a natural gas spill or fire occur. None of our emergency planning has included such a scenario. The medical, fire and policing services required to properly address the explosion risk is beyond Town financial capacities.

S-LA1-1

Since our last submissions to your agency in 2009, significant financial resources have been made to our tourism and infrastructure. To accommodate our developing cruise ship initiatives, \$900,000 (CAD) was invested in the Town Market Wharf. We had two large cruise ships and several smaller ships use the wharf in 2012 and expect that this initiative will be successful in the continuing years. The exclusion zones and transit schedules proposed by the LNG traffic would affect our cruise ship plans. The Town wharf also supports a multimillion dollar aquaculture industry. Again exclusion zones and transit schedules would impact that industry. Our signature hotel, the Algonquin is nearing a \$30,000,000 renovation in a joint venture by Marriott Hotels, New Castle Properties and the Province of New Brunswick. The hotel is the cornerstone of Saint Andrews tourism and is establishing a worldwide marketing program through the Marriott Hotel Autograph designation. The development of the Downeast LNG is seen as a significant roadblock to the viability of the Algonquin Hotel initiative and the negative economic impacts of the LNG terminal to the hotel is seen as dramatic. It is impossible to market a vacation in an identified risk zone. The Huntsman Marine Science Centre has just completed a \$4,000,000 construction of a world class marine aquarium. It sits exactly opposite the proposed site for the Downeast Project and in the high risk international breach scenario. The impacts to its viability are as significant as those of the Algonquin Hotel.

S-LA1-2

212 Water Street, Saint Andrews, New Brunswick, Canada E5B 1B4
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LOCAL AGENCIES & GOVERNMENTS (LA)

S-LA1 Town of Saint Andrews, New Brunswick, Canada

S-LA1-1 See response to comment CO16-2.

S-LA1-2 Potential impacts on local economies, including the tourism industry, are addressed in section 4.8 of the EIS. Additional information on the recent investments to the tourism industry and economy in Saint Andrews as identified in this comment letter has been added to section 4.8 of the final EIS.

With all of the current usage of the bay, it is impossible to add the proposed tanker traffic and carry on with the vital economic activity of this area. No scheduling can solve this problem; many users have to use the waterway when the conditions are appropriate for their needs.


S-LA1-2
cont'd

The government of New Brunswick and the State of Maine have worked together on the "Two Nation Vacation" marketing initiatives in the last several years. This collaboration works to stimulate tourism on both sides of the border. The Downeast LNG facility is seen as a threat to this tourism strategy.

We wish to bring these new investments to our tourism and infrastructure facilities to your attention. The Council of the Town of Saint Andrews continues to strongly oppose the development of an LNG terminal in Robbinston, Maine. The Downeast LNG project would put the viability of our tourism and commercial economy at risk.

S-LA1-3

Sincerely,


Stan Choptiany
Mayor, Town of Saint Andrews

S-LA1 Town of Saint Andrews, New Brunswick, Canada

S-LA1-3 Comment noted. Please see response to comments S-LA1-1 and S-LA1-2.

S-CO1

April 10, 2013

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First St., NE, Room 1A
Washington, DC 20426

Roosevelt Campobello International Park Commission on April 10, 2013 submits Service List revisions to Downeast LNG Project Docket Nos. CP07-52-000, CP07-53-000, and CP07-53001.

Dear Secretary Bose:

Please note the following Service List change for Dockets CP07-52-000, CP07-53-000, and CP07-52001.

Roosevelt Campobello International Park Superintendent Paul Cole has retired. Ronald E. Beckwith, Jr. has replaced Mr. Cole as superintendent and executive secretary for the Roosevelt Campobello International Park Commission.

On the service list for the above dockets, under the Roosevelt Campobello International Park Commission, please replace Paul Cole with Ronald E. Beckwith, Jr. Please also replace the contact e-mail skipcole@fdr.net with beckwith@fdr.net

Under U.S. Department of Interior, replace Paul B. Cole, III with Ronald E. Beckwith, Jr. Please also replace the contact e-mail skipcole@fdr.net with beckwith@fdr.net.

Thank you for your attention in this matter.

For Superintendent Ronald E. Beckwith,



Harold L. Bailey
Natural Resource and Planning Manager
Roosevelt Campobello International Park

Electronically filed with the Federal Energy Regulatory Commission on April 10, 2013

CC: Downeast LNG Service List of April 9, 2013 via e-mail on April 10, 2013
See attached list.

COMPANIES AND ORGANIZATIONS (CO)

S-CO1 Roosevelt Campobello International Park Commission

S-CO1-1 Thank you for your comment. The requested changes have been made to the official service list and the environmental mailing list.

S-CO2

April 10, 2013

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First St., NE, Room 1A
Washington, DC 20426

**Roosevelt Campobello International Park Commission Comments on Downeast LNG Project
Supplemental Draft Environmental Impact Statement, April 10, 2013
Downeast LNG Docket Nos. CP07-52-000, CP07-53-000, and CP07-53001**

Dear Secretary Bose:

Roosevelt Campobello International Park (the Park) was created both to commemorate President Franklin Delano Roosevelt (FDR) and to symbolize the enduring close friendship between the United States of America and Canada. The Park encompasses an area of 2,800 acres (1,120 hectares) that provides a natural setting for Franklin and Eleanor Roosevelt's Summer Home and an historic summer-cottage district. On behalf of the governments of the United States of America and Canada, the Roosevelt Campobello International Park Commission (Park Commission) is charged with administering the Park.

The Park Commission employs approximately fifty-three full-time and part-time or seasonal employees, about equally divided between citizens of Canada and the United States. The contribution of this payroll to the economic health of the communities of Campobello and Lubec is significant. A major tourist attraction in the Province of New Brunswick, the Park attracts badly needed dollars to tourism-related businesses in nearby communities in Maine and New Brunswick, and has a significant and positive "ripple" effect on the economy of Downeast Maine and southwestern New Brunswick.

On July 10, 2007, the Park Commission submitted a motion to intervene in the Federal Energy Regulatory Commission's (FERC) Downeast LNG Project dockets, and was accepted as an intervenor. The Park Commission was then, and remains, opposed to the Downeast LNG Project.

On July 5, 2009, the Park Commission submitted comments with regard to FERC's 2009 *Downeast LNG Project Draft Environmental Impact Statement*. Those comments will be addressed in FERC's *Downeast LNG Project Final Environmental Impact Statement*.

Roosevelt Campobello International Park Commission staff has reviewed the comprehensive *Downeast LNG Project Supplemental Draft Environmental Impact Statement* (Supplement), and the Park Commission now submits the following comments relating to that document.

Comment 1

The following two excerpts indicate that Downeast LNG's application before FERC does not meet requirements identified in 49 *CFR* 193 and *NFPA* 59A (2001). Although Park Commission staff searched through the Supplement, Park Commission staff could find no recommended mitigation measures that would prevent a vapor cloud (as indicated by dashed lines in Figure 4.12.5-1) from a release anywhere

S-CO2-1

S-CO2 Roosevelt Campobello International Park Commission

S-CO2-1 See response to comment S-NA7-3.

S-CO2

along the transfer line extending onto residential properties at Mill Cove. The Park Commission believes that if Downeast LNG does not meet all requirements contained in 49 CFR 193 and NFPA 59A that are relevant to Downeast's proposal, that FERC should deny Downeast LNG's application. | S-CO2-1 cont'd

Excerpt from Executive Summary paragraph beginning at bottom of page 1 and concluding at top of page 2. Bold and underlined emphasis added.

*FERC staff concluded that the preliminary engineering design would be acceptable provided: the mitigation measures relating to the reliability, operability, and safety of the proposed design are addressed by Downeast; and that the facility be subject to the Commission's construction and operational inspection program. **FERC staff, with the DOT acting as a cooperating agency, concluded that the site would meet the thermal radiation exclusion zone requirements, but that the vapor dispersion analysis presented by Downeast indicates the site would not meet the requirements of Part 193.** Based on its analysis of the LNG carrier transit, the Coast Guard recommended that the waterway along the proposed carrier transit route would be suitable for the type and frequency of LNG marine traffic associated with this proposed project, contingent on the implementation of measures to responsibly manage the maritime safety and security risks.*

Excerpt from Section B. Environmental Analysis, 4.12.5 Siting Analysis, page 40, just above Figure 4.12.5-1. Bold emphasis added.

*The flashing and jetting scenario at the dock area was modeled as a release near the unloading arms, but the release could occur anywhere along the transfer line back to shore. As shown in figure 4.12.5-1, the solid lines represent Downeast's filed dispersion results, while the dashed lines represent potential dispersion results if the release is modeled as occurring anywhere along the transfer line. As shown in the figure, **when the release is modeled as occurring anywhere along the transfer line, the vapor cloud could extend onto residential properties at Mill Cove. This would be prohibited by both 49 CFR 193 and NFPA 59A (2001).***

In its March 28, 2013 Notice of Availability of the Supplemental Draft Environmental Impact Statement for the Proposed Downeast LNG Project, FERC stated, "To ensure consideration of your comments on the Supplemental draft EIS, it is important that the Commission receive your comments before May 20, 2013."

On April 8, 2013, FERC released Downeast LNG's comment to FERC, in which DELNG stated it was conducting additional vapor dispersion modeling. In its comment, Downeast stated the modeling would be submitted, "... for the FERC staff to use in preparing the FEIS for the Project once the modeling for both scenarios as discussed above has been completed. It is estimated that the modeling will be completed and a report filed with FERC within approximately four weeks."

The stated intent of this modeling is to provide FERC staff with what DELNG believes will be accurate information that will negate the following FERC staff's Section B. Environmental Analysis, 4.12.5 Siting Analysis statement.

*"As shown in the figure, when the release is modeled as occurring anywhere along the transfer line, the vapor cloud could extend onto residential properties at Mill Cove. **This would be prohibited by both 49 CFR 193 and NFPA 59A (2001).**" (Bold emphasis added.)*

S-CO2 Roosevelt Campobello International Park Commission (continued)

S-CO2

The Park Commission believes that:

- DELNG had ample time to have considered the need for and produced the above-mentioned modeling prior to FERC's release of the Notice of Availability of the Supplemental Draft Environmental Impact Statement.
- Downeast LNG's April 8 submission is not a comment, but is an after-the-fact and after-the-allotted-time attempt to change the results of FERC staff's recommendations in the Supplement.
- FERC should not accept DELNG's suggested modeling. Downeast will have four weeks to produce and analyze its modeling – four weeks from April 8 will be May 6, leaving less than two weeks for intervenors and others to review and comment on Downeast's late modeling submission.
- If Downeast LNG is allowed to submit new modeling, that modeling should not be accepted prior to the May 20 comment period deadline.
- Downeast's modeling should be accepted only within the constraints of any comment period allotted for the Final Environmental Assessment.

S-CO2-1
cont'd

Comment 2

The Park Commission supports FERC staff's page 13 recommendation under Section B, Environmental Analysis, 4.12.3 Technical Review of Preliminary Engineering Design, and encourages FERC to adopt the recommendation in the Final Environmental Impact Assessment for Downeast LNG. The recommendation follows.

Prior to construction of the final design, Downeast should provide information/revisions related to those responses in their April 10, 2007 filing that state that corrections or modifications would be made to the design. The final design should specifically address response numbers 2, 8, 10, 13, 15, 23, 24, 25, 26, 27, 30, 31, 33, 34, 38, 51, 54, 56, 59, 61, and 70 using management of change procedures.

S-CO2-2

S-CO2-2 This recommendation is included in the final EIS.

Comment 3

The Park Commission continues to have serious concerns relating to the passage, anchorage or holding of LNG tankers in Friar Roads just offshore of the Roosevelt Campobello International Park's historic core. Should the Downeast LNG Project go forward, the Park Commission strongly supports and believes that it is imperative that all risk mitigation measures defined and detailed in the January 6, 2009 U. S. Coast Guard Captain of the Port, Sector Northern New England, Liquefied Natural Gas Facility Waterway Suitability Report for the Proposed Downeast LNG Facility, Robbinston, Maine are adopted by FERC in the final environmental assessment for the Downeast LNG Project.

S-CO2-3

S-CO2-3 See response to S-NA2-1.

Pages 63 through 68 of the Supplement include, among others, a number of the Coast Guard requirements that must be met to implement the mitigation measures identified in the WSR. Specifically relating to Friar Roads (and noted in both the WSR, and on Supplement page 65, are mitigation measures (below) relating to Friar Roads, immediately offshore of the Park Commission's Franklin D. Roosevelt Summer Cottage.

- *LNG vessels will not be allowed to anchor, or hold, in Friar Roads while waiting for a berth – anchoring or holding under this circumstance must occur offshore.*

S-CO2

- Loaded, inbound LNG carriers transiting Head Harbor Passage and Western Passage must maintain ample separation distance and uphold, at a minimum, the safety and security zone parameters. The intent of this limitation is to preclude the possibility of incurring overtaking situations and/or the need for holding at, or anchoring in Friar Roads.
- Non-LNG vessels may anchor in, or hold at Friar Roads while waiting for a vessel proceeding in the opposite direction to transit Head Harbor Passage or Western Passage.
- With the exception of temporary boarding areas established by and for Coast Guard authorized assets, the anchoring or holding of LNG vessels within Friar Roads is limited to confirmed emergency situations only, such as major mechanical malfunctions and reduced visibility situations following non-forecasted, abrupt weather changes (fog, squalls, etc.) and/or as directed by, and in consultation with, the Captain of the Port.

Comment 4

The Park Commission fully supports the following recommendation made by FERC staff, and encourages FERC to adopt the recommendation in the final environmental assessment for the Downeast LNG Project. The recommendation appears in the Supplement, Part B, Environmental Analysis, page 68, Section 4.12.7.6, Coast Guard Waterway Suitability Report (WSR).

Downeast should receive written authorization from the Director of OEP [Office of Energy Projects] before commencement of service at the LNG terminal. Such authorization would only be granted following a determination that appropriate measures, as recommended by the Coast Guard to ensure the safety and security of the facility and the waterway, have been put into place by Downeast or other parties.

S-CO2-4

S-CO2-4 A recommendation requiring written authorization from the Director of OEP before commencement of service is included in the final EIS.

Comment 5

The Park Commission supports and encourages FERC to adopt, in the final environmental assessment for the Downeast LNG Project, FERC staff's recommendation regarding Downeast's development of an Emergency Response Plan (ERP). The recommendations appear on Supplement pages 69-70 under section B, Environmental Analysis, 4.12.8, Emergency Response and Evacuation Planning. That recommendation is:

- Downeast should develop an ERP (including evacuation) and coordinate procedures with the Coast Guard; state/provincial, county, and local emergency planning groups; fire departments; state and local law enforcement; and appropriate federal agencies.
- This plan should include at a minimum: a. designated contacts with state and local emergency response agencies; b. scalable procedures for the prompt notification of appropriate local officials and emergency response agencies based on the level and severity of potential incidents; c. procedures for notifying residents and recreational users within areas of potential hazard; d. evacuation routes/methods for residents and public use areas that are within any transient hazard areas along the route of the LNG marine transit; e. locations of permanent sirens and other warning devices; and f. an "emergency coordinator" on each LNG vessel to activate sirens and other warning devices.
- The ERP should be filed with the Secretary for review and written approval by the Director of OEP prior to initial site preparation. Downeast should notify the FERC staff of all planning meetings in advance and should report progress on the development of its ERP at 3-month intervals.

S-CO2-5

S-CO2-5 This recommendation is included in the final EIS.

S-CO2

Comment 6

The Park Commission supports FERC staff's recommendations 1 through 78, found on Supplement pages 71 through 83, Section C, Conclusions and Recommendations. The Park Commission agrees that these recommendations would enhance the reliability and safety of the proposed project, and encourages FERC to adopt those recommendations in the final environmental assessment for the Downeast LNG Project. S-CO2-6

Respectfully submitted on behalf of the Roosevelt Campobello International Park Commission,

(signed)
Ronald E. Beckwith, Jr.
Superintendent / Executive Secretary
Roosevelt Campobello International Park

Electronically filed with the Federal Energy Regulatory Commission on April 10, 2013

CC: Downeast LNG Service List of April 9, 2013 via e-mail on April 10, 2013
See attached list.

S-CO2 Roosevelt Campobello International Park Commission (continued)

S-CO2-6 Updated recommendations are included in the final EIS.



S-CO3

May 15, 2013

Submission to the US Federal Energy Regulatory Commission (FERC) Regarding the Supplemental Draft Environmental Impact Statement in the Downeast LNG Application to Establish an LNG Terminal in Passamaquoddy Bay (Project docket number: CP07-52-000)

In a letter dated July 3, 2009 concerning the Draft Environmental Impact Statement (DEIS) relating to the Downeast LNG, Inc. and Downeast Pipeline, LLC proposal, we asked that you not recommend the approval of the project on a number of grounds. These included:

- The environmental risks associated with even accident free transit of LNG tanker through Passamaquoddy Bay, especially concerning collision with marine animals including the endangered North Atlantic right whale;
- The economic harm that would result from disruption to fishing, aquaculture, and tourism activities, both by direct displacement during shipping times, but also from the presence of armed escort vessels; and
- The environmental, societal, and human costs of any potential accident, including collisions with other vessels.

A more fundamental concern we raised was that your EIS process is only able to recommend mitigation measures; it cannot recommend that the application be denied. In our July 2009 letter we referred to this as an "implicit bias toward the proposed project in the DEIS." We stand by that assertion.

I write today, however, not only to re-assert the recommendations we made to you in 2009. I write also to comment on the Supplemental DEIS (S-DEIS) released March 2013.

In section 2.0 of the S-DEIS you state that "the Commission grants authorization for proposed LNG import terminals after first determining whether proposed facilities are in the public interest" noting that they should also be "in the public convenience and necessity." I would suggest that, even using your own criteria, the Downeast LNG proposal is not in the public interest and that necessity has not been demonstrated.

Our July 2009 letter demonstrates that the proposed project poses serious risks to the local economy, especially disruption of fishing and touring activities. These impacts alone make it such that this project does not align with the public interest. While not technically your jurisdiction, I implore you to factor in the public interest of the Canadian border communities in Charlotte County, New Brunswick, who rely on the coastal waters which would be impacted by the import facility and transport of LNG for the Downeast project.

The Downeast project is not needed, and as such should not be approved. As you note in section 2.0 of the S-DEIS the only party expressing interest in accessing product from the proposed project was Downeast LNG Trading, LLC, an affiliate of the proponent. That no external buyers have been found should give us pause. The South East Maine / South West New Brunswick region already has ample

1

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S-CO3 Fundy Baykeeper, Conservation Council of New Brunswick

S-CO3-1 Response to the Fundy Baykeeper comments on the draft EIS are included in Appendix T, response to comments NA4-246 through NA4-251. See section 4.12 for impacts regarding safety and reliability.

S-CO3-2 During its evaluation of whether or not to authorize the project, the Commission will determine whether or not the project is in the public interest and meets public convenience and necessity. The analysis in the EIS, and comments received during the NEPA process, are factors that will be considered during that evaluation.



S-CO3

capacity to import and transport LNG to New England Markets. The Canaport LNG facility in Saint John New Brunswick is currently operating well below capacity. This import facility and associated pipelines, can deliver product efficiently to the markets Downeast proposes to supply. This begs the question, Why build an import facility when a neighbouring facility is operating below capacity?

Fundy Baykeeper urges the US Federal Energy Regulatory Commission (FERC) to demonstrate an understanding of the economic and intrinsic value of a healthy Passamaquoddy Bay and to respect the wishes of the citizens on Deer Island and Campobello Island, as well as the Canadian mainland coastal towns and communities bordering Passamaquoddy Bay by denying Downeast LNG's request to set up an LNG facility in Passamaquoddy Bay.

Sincerely,

Matthew Abbott
Fundy Baykeeper
Conservation Council of New Brunswick

2

3 Prince Of Wales St., St Andrews, NB, E5B 3W9
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S-CO3 Fundy Baykeeper, Conservation Council of New Brunswick (continued)

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S-CO4

May 17, 2013

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Request for Changes to Service Lists

Dear Secretary Bose:

On behalf of the Province of New Brunswick, I respectfully request that your office update the Commission's official service lists in the proceedings listed below to reflect a change of representation information, effective immediately.

S-CO4-1

Docket Nos.: CP07-52-000, CP07-53-000, and CP07-53-001

<u>Old Information</u>	<u>New Information</u>
Paul F. Forshay David L. Wochner Sutherland Asbill & Brennan LLP 700 Sixth Street, N.W. Suite 700 Washington, D.C. 20001-3980 E-Mail: david.wochner@sutherland.com	David L. Wochner Sandra E. Safro K & L Gates LLP 1601 K Street, N.W. Washington, D.C. 20006-1600 Phone: (202) 778-9000 Facsimile: (202) 778-9100 E-Mail: david.wochner@klgates.com sandra.safro@klgates.com

Please contact the undersigned should you have any questions regarding this filing.
Thank you for your attention to this matter.

Respectfully,

/s/ David L. Wochner
David L. Wochner

Attorney for
Province of New Brunswick

S-CO4 K&L Gates, LLP on behalf of Province of New Brunswick

S-CO4-1 The requested change has been made to the official service list and the environmental mailing list.

S-CO5



May 18, 2013-05-19

To whom it may concern;

Reference: Proposed LNG facility in Robinson Maine.

I would like to submit my letter of opposition to the proposed LNG plant for Robinson Maine.

By way of background, I am the former consultant to the Charlotte County Regional Tourism Association, the former consultant to St Andrews/Campobello cruise ship initiative and the owner of a tourism franchise called **Discovery Map Charlotte County**.

In my capacity as regional tourism consultant, I travelled extensively throughout the county and also Washington County Maine.

In my capacity as marketing agent for the St Andrews/Campobello cruise ship initiatives, I had extensive discussions and relationships with a number of communities including the town of Eastport Maine.

I oppose the LNG plant on several fronts but will leave the issues of safety, macro economics and visual pollution to others more qualified to speak on those elements.

My opposition is based on the understanding that there will be safety and security buffers with each LNG ship as it enters and leaves both Head Harbour and Eastern Passage and that these restrictions and infringements on local tourism operators will, in my opinion, virtually kill many of the tourism operators on both sides of the St Croix River.

CRUISE SHIP INITIATIVES:

Saint Andrews/Campobello and Eastport have recently had considerable success in attracting the attention of cruise ship lines to this area over the past 3 years. Eastport and St Andrews hosted a total of 11 ship visits in 2012 and more ships are expected to come our way each year. There are letters on file from several cruise lines (Holland America, Crystal, Resident Sea World and Blount Small Ship Adventures to name a few) that indicate this area is going to receive a great deal of attention from this fastest growing tourism sector.

S-CO5

This encouragement from some of the worlds' leading cruise lines has lead to an investment of both marketing dollars and infrastructure improvements. St Andrews has just invested over \$1m in wharf and infrastructure improvements. A group of investors have just committed to an investment of as much as \$5m at Welshpool in Campobello on wharf improvements for their initiatives and Grand Manan Island has been working with St Andrews and Eastport in attracting small expedition ships such as Canadian Geographic to the area.

Cruise ships schedule 12-18 months in advance and we have ships beginning to schedule visits as far out as 2015/2016. The nature of a cruise ship visit is that it schedules far in advance - enters the area in the morning and leaves the same area late in the afternoon. These schedules are a traditional process of the cruise ship lines designed to maximize passenger excursions during an 8-10 hour stay in a given port. Statistics are available and accepted that every passenger on a cruise ship spends \$100+ per stay. The 11 ship visits in the inaugural season of 2012 were probably worth close to \$1m not counting the spinoff of visitors in the town looking at the natural attraction of these ships in our harbour. (The same visual attraction cannot be said about LNG tankers). On the wharf and in the community, the value of a strong cruise ship market has proven to be a positive impact.

My understanding of LNG tankers is that they require good visibility and that they have tide and wave tolerances, as well as security/buffer zones. These special sailing conditions and the nature of the business would not lend itself to scheduling their entry and exit to the same extent as cruise lines. **It seems to me that a region would therefore have to choose between being cruise ship friendly or LNG tanker friendly.**

While the cargo on an LNG tanker might be worth a great deal to corporate interests, the cargo and value of cruise ships has a far greater positive impact on a tourism community.

TOURISM INITIATIVES:

In addition to the cruise ship market, I have a regional interest and perspective on the traditional tourism market in the area. As an owner of Discovery Map, I visit the area and know many of the businesses owners first hand.

My personal records show a minimum of 12 whale watching businesses (six in St Andrews, 1 on Campobello Island, 1 in St George, at least 3 on Grand Manan Island and at least 1 in Eastport) in the region. In addition, I am aware of 2 sport fishing businesses, 2 kayaking businesses and 2 ferry services (St Andrews to Campobello new for 2012), Deer Island to Campobello and Eastport).

All of these businesses plus the salmon farms in locations like Fairhaven on Deer Island would be negatively impacted by the buffer zone issues applicable to an LNG tanker.

Most of these businesses employ 4-6 employees and operate for 4-6 months in the summer. The combined tourism traffic on all boats totals well over 50,000 passengers. At \$50 per person on board and another \$100 on shore the economic impact of this set of businesses is well over \$10m each summer including 100+ jobs.

All of these businesses rely on their ability to travel freely around Head Harbour passage and Eastern passage especially when the summer weather is fine and the whales are feeding in the area. To miss even a few trips each week due to LNG tanker traffic would, I believe, be the difference between profits and losses to many operators.

S-CO5

SUMMARY:

While the economic impact of the tourism operators and cruise ship initiatives could be considered small in relation to the value of natural gas on board any given LNG tanker, **the cultural and historic impact should not be understated. One of the biggest caches of this area is its natural beauty and in its laid back presentation of its people.**

Security boats with guns, buffer zones and no entry points on the water even for limited times, plus the scheduling and formality that is necessary to run an efficient LNG tanker business is contradictory to the existing style and nature of the area.

I do believe that once you industrialize an area, you discourage people from taking care of the surroundings and the cache of this region will be lost forever.



Vaughn McIntyre

S-CO5-1

S-CO5-1 Potential impacts on local economies, including tourism operators that currently use the LNG vessel transit route, are addressed in section 4.8 of the EIS. Additional information on the tourism operators that use the LNG waterway as identified in this comment letter, and others filed in response to the Supplemental draft EIS, has been added to section 4.8 of the final EIS.

S-CO6

Huntsman Marine Science Centre
1 Lower Campus Road
St. Andrews-by-the-Sea
New Brunswick E5B 2L7
Canada



Tel: 506 529 1200

May 17, 2013

RE: Concern Regarding a Liquefied Natural Gas Facility Proposed to be Constructed and Operated Near Robbinston, Maine
Docket Nos. CP07-52-000, CP07-53-000 and CP-53-001

Dear Members of the United States Federal Energy Regulatory Commission:

I am writing today to state our utmost concern regarding the above-noted proposed development. It is our opinion that this proposed development would have significant adverse impacts on the present and future sustainability of the Huntsman Marine Science Centre.

S-CO6-1

The Huntsman was established in 1969 as an independent, not-for-profit organization dedicated to providing high quality science, education, and outreach to universities, governments, schools, and the public at large. Since that time thousands of researchers, students, and practitioners have passed through our campuses, conducting work to support the sustainable development and use of our coastal and marine environments. More details on this impressive legacy can be found at www.huntsmanmarine.ca.

Recently the Huntsman embarked on a process to revitalize and modernize our facilities. The main piece of this development has been a \$10 million (CAD) investment in the construction of our new Fundy Discovery Centre aquarium and education centre. The Fundy Discovery Centre is now a cornerstone of the local economy. In addition, and equally important, it compliments our fleet of research vessels that operate from the St Andrews Biological Station, our residences that overlook the Maine coast, and our research facilities that draw seawater from the St Croix River estuary.

Clearly, construction and operation of the proposed LNG facility near Robbinston, Maine would have a profound affect on the Huntsman. As intended by our founders our success depends on the non-industrialized nature of our local environment. In particular, we note the following aspects of the proposed LNG operation that are of concern:

S-CO6 Huntsman Marine Science Centre, New Brunswick

S-CO6-1 Potential impact of the project on the Huntsman Marine Science Centre is discussed in section 4.7.3 of the EIS. That discussion has also been updated in the final EIS using information provided in this comment.

S-CO6

Huntsman Marine Science Centre
1 Lower Campus Road
St. Andrews-by-the-Sea
New Brunswick E5B 2L7
Canada



Tel: 506 529 1200

- Marine terminal that includes a 3,862 foot-long pier designed to handle LNG vessels 70,000 to 220,000 cubic meters of cargo capacity;
- Two LNG storage tanks, each with a nominal usable storage capacity of 160,000 cubic meters (259 feet in diameter and 196 feet in height);
- LNG vaporization and processing equipment;
- Piping, ancillary buildings, safety systems and other support facilities;
- Metering and ancillary facilities at the terminal site;
- Transit of LNG tankers through both US and Canadian waters;
- Expansion and modification of the M&NE pipeline;
- Estimated 60 LNG deliveries per year; and
- Six meter high perimeter fence to compensate for the inadequacy of the site to meet FERC requirements for vapor dispersion.

In addition, the above points do not reflect our concern for the potential for accidental events with transporting, unloading, processing, and storage activities.

I trust that you will recognize how potentially damaging this proposed LNG development would be to the Huntsman, our local environment, and our economy. I further trust that this recognition will be included in your deliberations. Please do not hesitate to contact me should you wish to discuss this matter further.

Yours truly,

A handwritten signature in blue ink, appearing to read "J. Smith", is placed over a light blue rectangular background.

James A. Smith, PhD
Executive Director

S-CO6 Huntsman Marine Science Centre, New Brunswick (continued)

S-CO7

Mr. Jon Wellinghoff, Chair
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington D.C. 20426

May 12, 2013

Dear Mr. Wellinghoff:

Downeast LNG Project, Docket Nos. CP07-52-000, CP07-53-000 and CP-53-001

The Nature Trust of New Brunswick strongly opposes the above referenced project. The facility is unnecessary and a threat to the natural beauty of a very special area.

Since our beginning in 1987 as the Nature Trust of New Brunswick (NTNB), our main goals have been to protect areas in New Brunswick that are ecologically significant, and to educate the people of New Brunswick about the province's natural heritage and the importance of land conservation.

The Nature Trust is a charitable land trust dedicated to the acquisition of private lands in order to ensure that biological diversity is protected in perpetuity. To date, the Nature Trust has conserved thousands of acres of land throughout the province. It is our mandate to manage these lands while maintaining healthy ecosystems, biodiversity, and preserving native species. In addition, we examine areas with high ecological sensitivity, undertake outreach and education activities and promote landowner contact. We also promote sustainable stewardship practices and involve communities in the monitoring of our nature preserves.

The Nature Trust has a number of preserves that could be negatively impacted by an accidental event occurring during the transit of LNG to the proposed facility. These preserves include: S-CO7-1

Caughey-Taylor – Charlotte County
Clark Gregory – Deer Island
L'Etang Islands – Charlotte County
Meredith Houseworth – Grand Manan, NB
Navy Island – St. Andrews, NB
Pagan Point – St. Andrews, NB
Southern Wolf Island – Charlotte County
Western Isles (Robert K. Stewart) – Charlotte County
Thomas B. Munro – Grand Manan, NB
Pagan Point – St. Andrews, NB
Dick's Island, Charlotte County

S-CO7 Nature Trust of New Brunswick

S-CO7-1 The Zones of Concern discussed in section 4.12.7.4 are not intended to represent an assured outcome of an intentional LNG carrier breach. This information, along with waterfront community demographics and locations of important cultural / environmental areas, is used by the Coast Guard to determine realistic and credible public safety and security implications from LNG marine traffic in the port. From these implications, the Coast Guard determines what measures can be used to reduce both the vulnerability to and the consequences of a release of LNG from a vessel. The potential for an accidental event to occur during LNG vessel transit, and measures that would be in place to prevent such an event, are discussed in section 4.12.7. We believe that resources located along the marine transit route, including the preserves identified in this comment, would not be affected by normal LNG vessel operations.

S-CO7

Connors Bros. Nature Preserve at Pea Point – Charlotte County

Beyond the potential impact from an accidental event, we feel that the proposed LNG facility would negatively impact the natural beauty of the area. This Bay of Fundy was one of only two finalists from North America in the Seven Natural Wonders of the World contest. (the other was the Grand Canyon) We oppose this project and urge FERC to reject it on the grounds that it is not needed and compromised a very special and beautiful natural area.

Yours truly,



Renata Woodward
Executive Director, Nature Trust of New Brunswick

S-CO7-2

S-CO7 Nature Trust of New Brunswick (continued)

S-CO7-2 We acknowledge that construction and operation of Downeast's proposed project would result in some adverse environmental impacts, including impact on the visual character of the area. See our analysis of the potential impact of the project on visual resources in section 4.7.4 of the EIS. However, most of these impacts would be reduced to less-than-significant levels with the implementation of Downeast's proposed mitigation measures and the additional measures we recommend in this EIS.



Friends of Head Harbour Lightstation
 210 Lighthouse Road
 Wilson's Beach Campobello
 N.B. Canada
 E5E 1M2

May 14, 2013

Kimberly D. Bose, Secretary
 Federal Energy Regulatory Commission
 888 First Street, NE, Room 1A
 Washington, DC 20426

Ref: OEP/DG2E/Gas 1
 Downeast LNG, Inc.
 Downeast Pipeline, LLC
 Docket Nos. CPO7-52-000, CPO7-53-000, CPO7-53-001

Dear Ms. Bose:
 This letter is to provide comment on the Supplemental Draft Environmental Impact Statement (SDEIS) for the Downeast LNG Project.



Head Harbour Lightstation is located on a small tidal islet at the extreme northern tip of Campobello Island, New Brunswick, Canada. This location is at the mouth of Head Harbour Passage where the passage empties into the Bay of Fundy. This lightstation was built in 1829 and has both Federal and Provincial Heritage status. It is the oldest standing wooden lighthouse in New Brunswick and one of the oldest in Canada. Out of about 1000 lighthouses in Canada there are 23 with Federal heritage and Head Harbour Lightstation is one of this elite group of 23. It is the epitome of the early wooden lighthouse and with its romantically beautiful setting, and it is one of the oldest and most beautiful in Canada. It is visited by many tourists and locals each summer. The summer students who work at the headland overlooking the lightstation have documented visitors for the last five years and there are approximately 20,000 visitors to the headland, the nearest vehicle accessible overlook, each summer. About half of these daily visitors cross over the rocks at low tide to visit the lightstation during the four hour access period at low tide. During the height of the season, July, August and September, there can be 300 to 400 people on the headland or crossing over to the light during this 4 hour period. When the whales are feeding at the mouth of the passage next to the lightstation these people will linger for hours watching the whales.

S-CO8 Friends of Head Harbour Lightstation

FHHL, Page 2

As you can see this lightstation together with the marine life at the mouth of Head Harbour Passage, is a draw for tourists in the area. Tour boats lingering around the lightstation and in the area come from Campobello, St. Andrews, Eastport, Deer Island and Lubec. Visiting sailboats are drawn to the area. This localized area is a hub of activity during the summer months. This summer and fall (2013) we (Friends of Head Harbour Lightstation) will be hiring work on the fog horn building roof, the lighthouse tower foundation, the lightstation island seawall and the bridge between the lightstation islands. There will be workman in this area all summer long and there will be ongoing work at the lightstation next year as well. We, the members of Friends of Head Harbour Lightstation, intend soon to rent the keeper's house during the summer months so there will be people at the lightstation during the entire tidal range.

Further inside the passage the Deer Island car ferry runs between Deer Island and Campobello and between Deer Island and Eastport. This ferry runs every hour between 9 am and 7 pm. to Campobello and on the half hour to Eastport.

On June 23rd of this year we will have over 500 people running the first annual marathon from West Quoddy lightstation in Lubec to Head Harbour Lightstation on Campobello. The road to the lightstation runs along Head Harbour Passage.

This all serves to illustrate the fact that Head Harbour Lightstation is an icon for the Maritime provinces and that there are significant concentrations of people traveling along and in Head Harbour Passage and massing at the headland overlooking Head Harbour Lightstation, especially during June, July, August and September.

Since there are a maze of rocks, islands and ledges in the middle of Head Harbour passage, the LNG tanker path would not be down the middle of the passage but would be next to Campobello while



traveling Head Harbour Passage. The tanker would enter the passage close to Head Harbour Lightstation as this photo taken from the lightstation island indicates.

It is worth mentioning that the wind and the weather pattern at the lightstation is similar to that of the open ocean. Strong winds and incoming tide go together and the weather changes can be sudden and intense at the lightstation. Because we are working at the lightstation and using a boat for access we are always cautious and aware of the intensity of the weather there. From late October until June it is not

S-CO8 Friends of Head Harbour Lightstation (continued)

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S-CO8

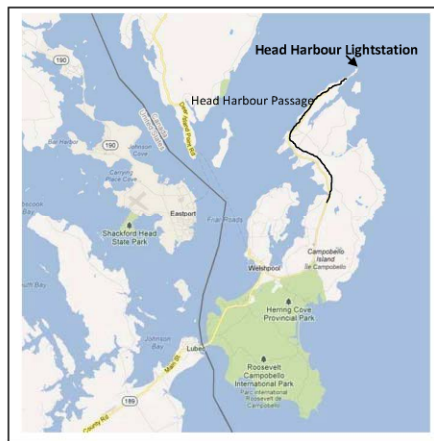
FHHL, Page 3

possible to work at the lightstation because of the inconsistent weather. During the winter 50 and 60 mile per hour winds are common events.

<http://www.flickr.com/photos/headharbourlight/5628080485/in/set-72157624613202616>

There are several short videos at this link demonstrating the weather at the lightstation island.

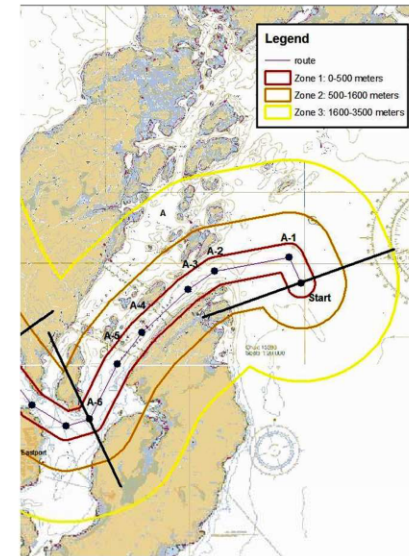
We, Friends of Head Harbour Lightstation, Inc., the owners of the lightstation complex and of the small adjoining islands and the headland overlooking these islands, are mandated to protect the lightstation and we also feel responsible for the visitors who come to the lightstation.



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S-CO8

FHHL, page 4



The above map lists the hazard zones for the LNG tanker in Head Harbour Passage. Head Harbour lightstation and the access road are on the edge of Zone 1. An accident here could cause the following damage:

Zone 1 — within 500 meters (0.3 mile) of the ship

- Death by cryogenic freezing
- Death by fire or explosion
- Death by asphyxiation (suffocation)
- Cascading LNG containment failure (three or more of the ship's LNG containers would likely fail)
- Destruction of the LNG ship and crew
- Everything within this zone would likely be destroyed
- Death to surface plankton
- Death to surface and diving birds
- Death to flying birds
- Death to fish near the surface
- Death to surfacing sea mammals (whales, porpoise, dolphin, seals)
- Grass fires

S-CO8 Friends of Head Harbour Lightstation (continued)

S-CO8

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FHHL, page 5

Most of the population of the town of Wilson's Beach lies along the edge Head Harbour Passage. This includes a post office, a church and a grocery store and tourism accommodations.

Head Harbour Lightstation and Roosevelt Campobello International park are together the major economic engines for Campobello, drawing large numbers of visitors. The Roosevelt Park attracts 100,000 visitors a year between May and October. This tourism factor is extremely valuable to Campobello and to the surrounding area. We believe that LNG tankers in Head Harbour Passage present a security risk to Campobello. We also believe that Campobello presents a security risk to LNG tankers traveling in such close proximity to the shoreline. We also know that any disruption of tourism would be a great hardship for Campobello. We are aware that the introduction of heavy industry here will undermine the existing economic fabric of the region and limit the potential and quality of future growth.

For all of these reasons Friends of Head Harbour Lightstation, Inc. strongly oppose the introduction of LNG tankers into Head Harbour passage.

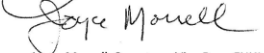
Sincerely,



Robert Hooper, President FHHL



Janice Meiners, Treasurer, FHHL



Joyce Morrell, Secretary, Vice Pres, FHHL



Deanna Baldwin, FHHL board member



Leo Baldwin, FHHL board member



Evelyn Bowden, FHHL board member

S-CO8-1

S-CO8-1 See our analysis of potential impacts of the project on regional tourism and economies in section 4.8 of the EIS. The potential for an accidental event to occur during LNG vessel transit, communities within the zones along the transit route including Campobello Island, and measures that would be in place to prevent such an event, are discussed in section 4.12.7.5. The U.S. Coast Guard's evaluation of the suitability of the proposed waterway is discussed in section 4.12.7.6.

S-CO9

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Downeast LNG, Inc.)	Docket No.	CP 07-52-000
Downeast Pipeline, LLC)	Docket Nos.	CP07-53-000
)		CP07-53-001

**COMMENTS OF THE PROVINCE OF NEW BRUNSWICK ON
SUPPLEMENTAL DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Pursuant to the Federal Energy Regulatory Commission's ("Commission" or "FERC") March 28, 2013 Notice of Availability of the Supplemental Draft Environmental Impact Statement for the Downeast LNG Project, the Province of New Brunswick ("New Brunswick" or "Province") submits the following comments regarding the Supplemental Draft Environmental Impact Statement ("SDEIS"). As set forth in greater detail below, the Province respectfully urges the Commission to incorporate its comments into the final environmental impact statement ("FEIS") and to condition any grant of authorization for the proposed Downeast LNG Project on the Province's determination and approval of the issues identified herein, as these issues are within the Province's jurisdiction.

I. COMMUNICATIONS

Correspondence and communications regarding these comments should be addressed as follows, and the following should be included on the official service list for this proceeding:

David L. Wochner
Sandra E. Safo
K&L GATES LLP
1601 K Street, N.W.
Washington, D.C. 20006
Telephone: 202.628.1700
Facsimile: 202.778.9100
david.wochner@klgates.com
sandra.safo@klgates.com

DC-9702561 v3

S-CO9 K&L Gates, LLP on behalf of Province of New Brunswick

S-CO9

II. INTRODCUTION

More than six years ago, Downeast LNG, Inc. ("Downeast LNG") proposed and applied to the Commission for a liquefied natural gas ("LNG") import and regasification terminal located in Robbinston, Maine immediately across Head Harbour Passage from St. Andrew's, New Brunswick, Canada. Although the physical plant would not be located in New Brunswick, the Province and Canada will bear substantial negative burdens and risk if this project were to be built and placed into service. LNG vessels approaching the proposed Downeast LNG Project would transit through Canadian waters and along New Brunswick's shorelines from the southeastern coast of Campobello Island, north around Quoddy Head, through Head Harbour Passage, around Indian Island and then through the Western Passage and Passamaquoddy Bay. The majority of the route would be within 500 to 1,000 meters proximity to New Brunswick land due in large part to the very narrow transit. These comments are intended to provide updated information assessing the impacts of LNG vessel traffic and related activities on the people, lands and shores of New Brunswick that are likely to result from the operations of the proposed Downeast LNG Project and to respond directly to the FERC Staff's March 28, 2013 SDEIS for the proposed Downeast LNG Project. The Province continues to have the same concerns expressed in its July 2, 2009 Report of the Departments of the Province of New Brunswick on the Downeast LNG, Inc. Draft EIS ("Report") and understands that FERC will address all comments filed in response to the original draft environmental impact statement ("DEIS") that FERC issued for Downeast LNG on May 15, 2009, when it issues its FEIS.

S-CO9-1

New Brunswick's July 2, 2009 Report provided a government-wide assessment of the impacts of the proposed Downeast LNG Project on the Province. The March 28, 2013 SDEIS takes into account new information related to LNG facilities from the U.S. Department of

S-CO9 K&L Gates, LLP on behalf of Province of New Brunswick (continued)

S-CO9-1 Responses to the referenced Province of New Brunswick comments previously submitted on the draft EIS are included in Appendix T, response to comments CO13-1 through CO13-40.

S-CO9 K&L Gates, LLP on behalf of Province of New Brunswick (continued)

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S-CO9

Transportation, the U.S. Department of Energy, the U.S. Coast Guard, and Downeast. While these comments respond directly to issues raised in the SDEIS, they are also intended to provide updated information on the issues New Brunswick presented the July 2, 2009 Report. The Province of New Brunswick believes it is necessary to refresh the information provided in the Report due to the substantial lapse in time—four years—since FERC Staff analyzed the concerns and issued the DEIS on the Downeast LNG Project. In that time, New Brunswick's ecosystem in the areas of the proposed LNG vessel routes has continued to flourish, many of New Brunswick's economic sectors continue to utilize ports in New Brunswick that are located along the proposed LNG vessel routes, and the Province has strengthened its position as a desired tourist destination in New England and Maritimes Provinces areas, especially due to the very areas that will be impacted by Downeast LNG.

These comments have been prepared based on information provided by Provincial departments based on their review and assessment of the SDEIS for the proposed Downeast LNG Project, including the Department of Fisheries; Department of Agriculture and Aquaculture, Aquaculture Division; Department of Economic Development and Department of Environment and Local Government; and Department of Public Safety. The comments have been coordinated with New Brunswick Intergovernmental Affairs, North American Division.

As noted in the Report, no U.S. government agency has jurisdiction over Canadian waters or New Brunswick territory and interests. Thus, FERC is without authority to address any of the potential effect on Canadian interests—including New Brunswick and its people—of the LNG vessel traffic associated with the proposed Downeast LNG Project. The U.S. Coast Guard, on which FERC relied with respect to marine impacts, has specifically recognized in its Waterway

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S-CO9

Suitability Report ("WSR") that the proposed Downeast LNG Project cannot proceed without Canadian approval, support, and coordination.

Developing bilateral arrangements and protocols is necessary on a number of fronts to ensure that adequate safety, security, and environmental response mechanisms are in place to ensure safe and efficient transits and for the protection and welfare of the surrounding marine communities. The eventual involvement and cooperation of Canada's maritime, environmental, and public safety authorities are paramount to ensure the safety and security of the waterway. (WSR at 48).

Under Canadian law, vessel transportation and related activities in Canadian waters fall within the exclusive jurisdiction of the federal government. The Canadian government has issued an unequivocal ban on the transit of LNG vessels through the Head Harbour Passage. Notably, on February 14, 2007, Canadian Ambassador to the United States, Michael Wilson, stated in a letter to former FERC Chairman Joseph T. Kelliher:

The impact of the proposed siting of the terminals, and the potential passage of LNG tankers through the environmentally-sensitive and navigationally challenging marine and coastal areas of the sovereign Canadian waters of Head Harbour Passage, present risks to the region of southwest New Brunswick and its inhabitants that the Government of Canada cannot accept. We are therefore prepared to use domestic legal means to address our concerns and prevent such passage from occurring.

The Government of New Brunswick has recognized the Canadian government's authority to impose the LNG vessel ban, consistent with the constitutional delineations in Canada. The findings and conclusions in these comments, therefore, may inform the federal Canadian government, acting through its various departments, in making any determinations or taking any actions relating to the potential impacts of LNG vessel traffic in Canadian waters, notably the interests of the people of New Brunswick.

S-CO9

These comments also include findings and conclusions regarding the potential effects of LNG vessel traffic on the shores and territory of New Brunswick, its people and their safety, economy and environment. These effects plainly fall within the jurisdiction of the province of New Brunswick. These comments and the Report provide a sound analysis which may inform any future action, legislative, regulatory or other, which the government of New Brunswick may consider or take in an attempt to prevent or minimize such effects.

While the impacts on the Province from the proposed Downeast LNG Project technically are outside the scope of FERC's authority as noted above, the Province recommends that they be accepted in the spirit of intergovernmental cooperation and transparency. Submission of these comments to FERC does not subject New Brunswick concerns to FERC's jurisdiction, but FERC may elect to use the contents of the Report and these comments in addressing circumstances within FERC's jurisdiction. For example, FERC may be able to reevaluate the potential effects on certain U.S. interests which are affected in a similar fashion to New Brunswick's interests. Similarly, FERC should recognize that the Province's concerns regarding the inadequacy of resources required to facilitate a safe vessel transit are inextricably tied to the U.S. Coast Guard requirements, and in turn to FERC's ultimate conditional authorization. In all events, however, the Province of New Brunswick notes as it has before, that FERC's treatment of the Report, and any action FERC may take in reaction to these comments, will not confer jurisdiction on FERC with respect to any federal Canadian or New Brunswick matters.

S-CO9-2

S-CO9-2 Thank you for your comment.

III. COMMENTS

Based on review of the SDEIS and the detailed information the departments submitted, the Province of New Brunswick concludes that the LNG vessel transit associated with the proposed Downeast LNG Project in Maine would present substantial and currently

S-CO9

unmanageable risks and losses to the Province, its citizens, environment, and economy. After thoroughly reviewing the technical, scientific, and factual information, the Province of New Brunswick highlights the following critical findings and conclusions.

A. Safety and Security

The proposed Downeast LNG Project and the SDEIS raise a variety of safety and security issues, including those described below.

1. Carrier Routes – Closing of “Fundy Traffic”

The SDEIS includes a discussion of the proposed carrier routes, which includes a discussion of “Fundy Traffic,” a Canadian Vessel Transit System. The Canadian government has announced its intentions to close Fundy Traffic and manage the Bay of Fundy marine transit from a remote location. This would reduce local expertise and capacity for high-risk cargo management, which could result in challenged or impaired LNG vessel transit. The SDEIS does not mention the potential closing of “Fundy Traffic” or the impacts of such a change in the management of marine transit in the Bay of Fundy.

S-CO9-3

2. Emergency Response Plan Should be Filed Prior to Project Approval

The SDEIS indicates that Downeast must submit and FERC must approve an Emergency Response Plan (“ERP”) prior to any final approval to begin construction, but recommends that the ERP be submitted prior to initial site preparation. The ERP is a critical document that should be reviewed and approved before the project itself is approved. Moreover, relevant Canadian and New Brunswick agencies should be given an opportunity to review and comment on the ERP prior to FERC approval given the direct effects on the Province and the absolute necessity of the Province’s participation to make an ERP for vessel transit through Western and Head Harbour Passages effective.

S-CO9-4

S-CO9 K&L Gates, LLP on behalf of Province of New Brunswick (continued)

S-CO9-3 As discussed in section 4.12.7.5 of the EIS, Fundy Traffic is no longer in operation and all vessel movement and communications are controlled remotely. Consequently, the Coast Guard has recommended that Downeast consult with Transport Canada to determine if this change will compromise the safety of deep draft vessel traffic entering the Passamaquoddy Bay port area and that these results be provided to Coast Guard Sector Northern New England for evaluation.

S-CO9-4 We include a recommendation in this EIS that Downeast develop an ERP and coordinate procedures with the Coast Guard; state/**provincial**, county, and local emergency planning groups; fire departments; state and local law enforcement; and appropriate federal/tribal agencies. (emphasis added). The ERP must be developed prior to initial site preparation. The Commission recognizes that issues of Canadian sovereignty are beyond its purview. It is not clear at this time whether or how the Government of Canada would participate in the emergency planning effort.

S-CO9

3. Inclusion of Population Centers in Zones of Concern

Among the safety and security issues, as noted in the SDEIS, is the inclusion of several New Brunswick population centers within the identified Zones of Concern 1-3. For example, Deer Island Point Park is entirely in Zone 2 and closely borders Zone 1. The Park is a popular tourist destination that includes campgrounds and other attractions. Almost the entire community of Wilson's Beach on Campobello Island is located in Zone 2. This area includes Campobello Island Community School and the fire and ambulance service headquarters from Campobello Island. In the event an LNG vessel strays from the centerline of the intended vessel transit route, these areas could be in Zone 1, characterized by a thermal flux level of 37.5 kW/m^2 , where impacts on structures and organisms are expected to be significant within 500 meters.

The community of St. Andrews, New Brunswick, which boasts seaside golfing, kayaking, scuba diving, bed and breakfasts, and a myriad of other activities that make it a very popular tourist destination, lies in Zone 2. In the event an LNG vessel strays from the centerline of the intended vessel transit route or experiences an incident when moored in the waterway at the terminal immediately across from St. Andrew's, much of the community of St. Andrews could be encompassed in Zone 3, increasing the risk of injury and/or structural damage. Additionally, the waters off the coast of St. Andrews are included in Zone 3, subjecting many recreational users of the waterway—both Canadian and American—to potentially significant harm.

The SDEIS lists the various New Brunswick communities that would be along the carrier ships' routes, but its treatment of safety zones along the LNG vessel route is inadequate and fails to address the propriety of a route that includes so many communities in its Zones of Concern.

S-CO9-5

S-CO9 K&L Gates, LLP on behalf of Province of New Brunswick (continued)

S-CO9-5 The potential for an accidental event to occur during LNG vessel transit, the communities within the zones along the transit route including those in New Brunswick, and measures that would be in place to prevent such an event, are discussed in section 4.12.7 of the EIS.

S-CO9

4. Lack of Interoperability, Availability, and Cost of Emergency Responders

As noted in the Report, there is limited interoperability between fire, ambulance, and police agencies within the Province and between Canadian and U.S. assets. The Province continues to be concerned about this lack of interoperability. Furthermore, in many areas of the Canadian communities affected by the proposed Downeast LNG Project, the human resources necessary to mitigate risks associated with an LNG vessel incident may not be available, particularly in rural areas. The SDEIS does not address marine security implications and complications at law including: onwater law enforcement capacity, laws, rules of engagement, and use of force. While expansion of the Canada-U.S. Shiprider program may offer some policy guidance, New Brunswick's analysis suggests that it would not be possible to maintain the human resources necessary to achieve the required security capacity in rural areas along the vessel transit route. Interoperability and availability of key emergency responders in the event of an LNG vessel incident would be critically important to address and control the threat or event. In addition, FERC Staff notes the cost of emergency responders in the SDEIS. This continues to be a matter of substantial concern for New Brunswick given the limited resources available and the emphasis by the Coast Guard and FERC on such emergency response capabilities.

S-CO9-6

B. Effects on Energy Projects

As mentioned in the Report, New Brunswick's location on the Bay of Fundy presents a number of opportunities for renewable energy projects, particularly for tidal power. The Province's Department of Energy has been exploring the potential for in-stream tidal power in the Bay of Fundy for a number of years. The Province's Department of Energy has identified Passamaquoddy Bay area, including Head Harbour and Western Passages as areas of interest for further exploration of the potential to extract energy from tidal currents via in-stream power

S-CO9-7

S-CO9 K&L Gates, LLP on behalf of Province of New Brunswick (continued)

S-CO9-6 See response to comment CO13-4 in Appendix T.

S-CO9-7 See response to comment CO13-8 in Appendix T.

S-CO9

projects particularly given the fact that the tides in the Bay of Fundy and Passamaquoddy Bay are some of the largest and strongest in the world. These tidal power projects raise areas of concern for multi-use activities, such as deep draft vessels and in-stream tidal power devices. The SDEIS does not address the potential co-existence of LNG vessels and tidal power unit arrays. As noted in the Report, the Province's Department of Energy has some concerns about the security zones around transiting LNG vessels since such security zones may impede activities in Passamaquoddy area and restrict operation and maintenance activities of in-stream tidal devices.

S-CO9-7
cont'd

C. Effects on Fishery

As noted in the Report, the proposed Downeast LNG Project does not present any economic benefits to the Province – potential benefits accruing from its construction would be minimal as there would be a preference for U.S. suppliers and labor. However, the negative economic impacts on the Province would be great. Specifically, the proposed Downeast LNG Project would impose negative impacts on the lucrative natural fisheries and the aquaculture fishery in the Bay of Fundy, as LNG vessel traffic would adversely restrict their necessary operations, which involve the use of small water crafts.

S-CO9-8

D. Effects on Tourism, Heritage and Culture in the Bay of Fundy Area

In addition to the safety concerns noted above, the Province's tourism industry would be negatively affected by the proposed Downeast LNG Project and attendant LNG vessel traffic. The breathtaking Bay of Fundy and the "Fundy Experience" have been, and will continue to be, the centerpiece of the Province's tourism marketing efforts. These efforts include the integration of the seaside historic St. Andrews by-the-sea, the Fundy Coastal Drive, the Fundy Trail Parkway, Fundy National Park, the Hopewell Rocks and Cape Enrage. The SDEIS does not

S-CO9-9

S-CO9 K&L Gates, LLP on behalf of Province of New Brunswick (continued)

S-CO9-8 See response to comment CO13-13 in Appendix T.

S-CO9-9 The potential for an accidental event to occur during LNG vessel transit, the zones of concern that could be affected by various accidental event scenarios, and measures that would be in place to prevent such events, are discussed in section 4.12.7 of the EIS. We believe this analysis is appropriate for evaluation of the potential scenarios and potential impacts on resources along the LNG vessel transit route, including cultural and heritage resources in New Brunswick. See also response to comment CO13-33 in Appendix T. Potential effect on tourism from normal operation of the project, including LNG vessel transits, is included in section 4.8 of the EIS.

S-CO9 K&L Gates, LLP on behalf of Province of New Brunswick (continued)

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S-CO9

address these impacts based on the new information provided in the SDEIS related to vessel transit.

S-CO9-9
cont'd

The proponents of the Downeast LNG Project have not adequately assessed issues and concerns relating to Canada's built heritage resources and the high value placed on those resources by the Government and people of New Brunswick. The Department of Tourism, Heritage and Culture is responsible for such built heritage resources. The Province's heritage is important. In this part of Atlantic Canada the peoples are proud of those who preceded them and value their past, seeing historical, cultural, and scientific worth in those past resources. We also see economic merit and find educational significance and spiritual meaning in them. These are important heritage values that relate to built heritage resources, which include buildings, structures and landscapes that are either designated as such by an authority or eligible for designation. Potential impacts to these values and resources may not be minimal as the report predicts. Negative impacts may exist for many years. Heritage resources are generally non-renewable and impacts may be non-reversible.

Direct impacts to built heritage might transpire if an event should occur (e.g., spill, explosion, fire, and spread of fire). Indirect impacts to heritage landscapes or heritage experiences may also result from light and noise pollution, emissions, industrial infrastructure and increased security measures. Heritage landscapes and heritage experiences are sought after in the tourism sector. These direct and indirect impacts will ripple through other related business sectors of the economy both in Canada and the United States, including accommodations, food, and general commercial sales.

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S-CO9

An assessment of heritage resources should be broader than designated or known resources. Non-designated, unknown or untapped heritage resources that are eligible for designation by an authority also have heritage value and should be considered.

S-CO9-9
cont'd

The Zones of Concern and Hazard Zones identified in the SDEIS are not appropriate to address impacts to heritage or tourism resources and values and as the U. S. Coast Guard notes are only postulated estimates at best. These zones are measured from the midline of the transit route. In the perfect scenario vessels will stay on the midline of the route. The very historic town of St. Andrews is situated at 3500m from the centerline of the route. If a catastrophic event occurs and a LNG vessel drifts off the proposed centerline by as little as 250 meters the majority of historic St Andrews would be included in the zone. Other smaller communities and other built heritage resources are closer to the midline.

Consideration is given to a scenario where an LNG ship is attacked, catches fire, and subsequently drifts on to the shores of Grand Manan. If a ship were attacked or for some other reason suffered loss of control along the transit route where it passes between populations at Eastport, Campobello and Deer Islands, the impact would be quicker, felt by more residents, and impact more heritage and tourism resources and values. Additionally, built heritage and tourism resources outside of these zones may be impacted. The aftermath of this scenario on heritage and tourism is not adequately addressed in the SDEIS based on the new information provided.

It is recognized that the value of property in heritage areas, for example St. Andrews, can be higher than property in areas not recognized for heritage. There is a relationship between heritage and enhancement of the quality of life and wellness. On the American side the assessment considers aesthetic and scenic resources and visual character. The tourism industry

S-CO9

and heritage resources and values are inextricably woven together. While it is very difficult to estimate the value of heritage resources, it is obvious this region relies heavily on tourism, which benefits greatly from the heritage character of the area.

E. Effects on Economic Sectors Serviced by Port of Bayside

The privately held Port of Bayside also would be negatively restricted in its operations when LNG vessel traffic would interfere with its free flow of vessels. The Port of Bayside is a niche port servicing the Province's agriculture, fisheries, mining and forestry sectors. Activities at the Port of Bayside could be disrupted by LNG vessel traffic, including the security zones in Head Harbour Passage, Western Passage, and Passamaquoddy Bay. These disruptions are not addressed in the SDEIS.

S-CO9-10

S-CO9-10 See response to comment CO13-14, CO13-32, and CO13-39 in Appendix T.

F. Viability of an LNG Import Project in New England

The Province acknowledges that once FERC completes its environmental and safety review pursuant to NEPA, the agency's policy is to let the market decide as to whether an LNG import or export terminal is ultimately built. Nonetheless, the Province respectfully urges the Commission to recognize the complete lack of economic viability of a project like Downeast LNG given its proximity to and interconnection with what are arguably two of the most prolific gas plays in the world, the Marcellus and Utica shales. The tremendous growth in the Marcellus and Utica in nearby Ohio and Pennsylvania has resulted in a proliferation of new pipeline infrastructure in the Mid-Atlantic and Northeast and could soon make the area a natural gas exporter via the proposed Cove Point LNG export project. This eviscerates the need for an LNG import terminal in New England. In fact, it is difficult to comprehend how imported LNG would be able to compete with an increasing local supply that does not require liquefaction, ocean

S-CO9-11

S-CO9-11 The Commission staff recognizes the recent and ongoing shale gas developments in the Northeastern U.S. The project's need will be considered by the Commission in its determination whether or not to authorize the project.

S-CO9

transport and regasification. The daily volume of produced natural gas in Pennsylvania alone has increased from 0.8 billion cubic feet per day in 2004 to 4.5 billion cubic feet per day in July 2011. Currently there are 5,500 producing gas wells in Pennsylvania which will continue the trend of increasing local supply of natural gas. Even if New York ultimately declines to allow hydraulic fracturing, there is enough production in Pennsylvania, West Virginia and Ohio, and substantial new pipeline capacity being built to satisfy consumer demand, hence the efforts to build export capabilities. Although FERC lets the market decide which LNG terminals will get built, there can be little justification when FERC conducts its environmental review for allowing a project to be built that is unlikely to ever be allowed to operate and market conditions make it highly unlikely that it will operate as it is authorized.

S-CO9-11
cont'd

IV. CONCLUSION

The areas and issues identified above rest within the jurisdiction of the Province of New Brunswick and cannot be fully resolved by FERC. Accordingly, the Province respectfully urges the Commission to condition any grant of authorization for the proposed Downeast LNG Project on the Province's or Canada's determination and approval, as appropriate, of the issues identified herein. These comments present New Brunswick's current assessment of the impacts on the Province of the proposed Downeast LNG Project proposed in Maine. New Brunswick Intergovernmental Affairs in cooperation with relevant government departments will continue to monitor and assess the impacts of this and other projects on the safety and security, economic well-being, and environmental health of New Brunswick and its people. In light of the brief comment period allotted for the SDEIS, the Province of New Brunswick respectfully reserves its right to file additional information updating the Commission on issues raised in the SDEIS and the Report.

S-CO9-12

S-CO9-12 The Commission staff recognizes issues of international law are beyond its purview. Downeast would be responsible for obtaining any permits and authorizations necessary for construction and operation of its project. This does not require a specific recommendation from FERC staff.

S-CO9

Wherefore, in consideration of the foregoing, the Province of New Brunswick respectfully requests the Commission consider the foregoing Comments as it continues its review of the Downeast LNG Project.

Respectfully submitted,

/s/ David L. Wochner
David L. Wochner
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*Attorneys for the
Province of New Brunswick*

May 20, 2013

S-CO9 K&L Gates, LLP on behalf of Province of New Brunswick (continued)

S-CO10

Canadian Embassy



Ambassade du Canada

May 17, 2013

Mr. Jon Wellinghoff, Chairman
Federal Energy Regulatory Commission
888 First Street N.E.
Washington, D.C. 20426

Dear Mr. Wellinghoff,

I am writing in response to the Federal Energy Regulatory Commission's (FERC) March 2013 release of the Supplemental Draft Environmental Impact Statement (SEIS) on the Downeast LNG Project. The Government of Canada is committed to protecting the area including Head Harbour Passage and Passamaquoddy Bay, widely recognized as a unique and highly productive marine ecosystem.

Canada continues to have serious concerns with the proposal to construct an LNG terminal on the Maine side of Passamaquoddy Bay. These concerns relate to the environmental, navigational and safety risks as well as the adverse economic consequences arising from the passage of LNG tankers through Head Harbour Passage, New Brunswick, which the Government of Canada opposes.

The SEIS notes that co-ordination with the Government of Canada will be required to enable the safe and secure movement of LNG tankers through Canadian waters. As was reiterated in our July 7, 2009, letter to the FERC, the waters of Head Harbour Passage are internal waters of Canada by virtue of historic title and are therefore subject to the control and regulation of the Government of Canada. Given that LNG vessels would need to transit through Head Harbour Passage as well as the New Brunswick side of Passamaquoddy Bay, our position remains that this proposal cannot proceed. Canada will not cooperate in any coordination planning with U.S. authorities; nor will our Government curtail the use of Head Harbour Passage and Passamaquoddy Bay in order to accommodate the incursion of LNG tankers.

S-CO10-1

Canada and the United States share the closest and most integrated bilateral relationship in the world and have an extensive history of cooperation on energy and other transboundary issues. I look forward to working with you on further strengthening this important relationship in a way that considers the concerns and needs of both our countries.

Sincerely,

Gary Doer
Ambassador

S-CO10 Gary Doer, Ambassador, Canadian Embassy

S-CO10-1 We recognize that Canada has concerns relating to LNG vessel passage through its waters. However, the FERC has a legal obligation to continue processing Downeast's application so that all the issues can be properly documented before the Commission makes a decision on the proposal.

INDIVIDUALS

S-IND1 Ronna M. Pasha

S-IND1

2013 APR 16
10:16 AM
SECTION 107
FEDERAL ENERGY
REGULATORY COMMISSION

ORIGINAL
CP07-S2-000
April 10, 2013

To Whom It May Concern:

I have read the Supplemental Draft Environmental Impact Statement, Docket # CP07-S2-000 March 2013.

Upon careful study of written material and map within, I have concluded that F.E.R.C. should deny permits to build, operate or conduct any pipeline, shipping, distribution or storage of LNG in the forssaid mapped land area.

S-IND1-1

Referring to Figure 1 map, amended from original routing, the issue of land and water, wildlife and wetland vulnerability is still an issue.

Accidental spillage, sabotage, vandalism or "acts of God" would jeopardize valuable wetlands, wildlife, wildlife corridors, water tables, estuaries, ponds, streams, forests and migrating species.

S-IND1-2

Scientists still don't know the eventual impacts that climate change will bring either increased winds; freak, erratic weather patterns and inordinately amounts of precipitation; extremes in temperatures all year; all these factors could impact materials, delivery and security of every aspect of LNG production, delivery and storage.

S-IND1-3

I remind you again that I only speak for the human species; there are others who cannot speak for themselves. Sincerely, Mrs. Ronna M. Pasha

S-IND1-1 Commission staff has analyzed in this EIS the potential impacts from construction and operation of the proposed LNG import terminal, storage facility, and sendout pipeline. The Commission will consider this analysis during its evaluation of whether or not to authorize the project.

S-IND1-2 The potential impact of the project on environmental resources, including wildlife, water, estuaries, ponds, streams, forests, and migrating species, is addressed in the EIS.

S-IND1-3 Downeast has prepared a Waterway Suitability Assessment (WSA) for the proposed LNG vessel transit route, which is reviewed and, if appropriate, approved by the U.S. Coast Guard. The WSA must be evaluated on an annual basis and updated as needed. Any measureable changes in wave or climate conditions along the waterway would be addressed in the annual reviews of the WSA.

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S-IND2

BRIAN W. FLYNN, ED.D.
 RADM/ASSISTANT SURGEON GENERAL (USPHS, RET.)
 516 POINT FIELD DR.
 MILLERSVILLE, MARYLAND 21108

May 6, 2013

Kimberly D. Bose, Secretary
 Federal Energy Regulatory Commission
 888 First Street, NE, Room 1A
 Washington, DC 20426

Ref: OEP/DG2E/Gas I
 Downeast LNG, Inc.
 Downeast Pipeline, LLC
 Docket Nos. CP07-52-000, CP07-53-000, CP07-53-001

Dear Ms. Bose:

I am writing to provide comment on the Supplemental Draft Environmental Impact Statement (SDEIS) for the Downeast LNG Project, dated March 2013. I have provided comment before on this and the other, now defunct, LNG import facilities, proposed in the Passamaquoddy Bay area. As in the past, I will restrict my comments to topic impacting the public's health and safety.

I have reviewed the SDEIS and wish to comment in two areas. First, I will address the relationship between risk and need. Second, I will comment on this proposal's relationship to health aspects of national security.

Risk and Need

Impact statements such as the one reviewed here strive to evaluate and make recommendations based upon a complex set of project characteristics, need, and potential risk. With respect to need, according to the document, FERC is to make its decisions based on several factors including "...market demand, gas supply..." (p. 2). I could find no reference to current *need or supply* in the document. Based upon my admittedly non-expert impression of the current state of need for additional LNG import facilities, there simple is none. FERC knows better than I how dramatically the world of natural gas production and availability has changes in the years since 2006 when Downeast LNG began the application process. Could you help me understand at what point, and in what document, will FERC determine how this proposal relates to current need and supply?

The SDEIS articulates a number of risks to human health. Many of these are most dramatically presented in Hazards Resulting from Accidents (4.12.7.2) and Hazards Resulting from Intentional Acts (4.12.7.3). Information regarding what areas are in the greatest to least danger are described in a Zone 1, 2, 3 system with the most significant impacts on "structures and organisms" (p.58) occurring in the first two zones. In the case of this project, these areas include much of the City of Eastport and Pleasant Point, Maine, parts of Deer Island, several small but inhabited islands, "all Canadian areas

S-IND2-1

S-IND2-1 The project's need will be considered by the Commission in its determination whether or not to authorize the project. The market ultimately will determine the viability of the proposed project.

2 S-IND2

along the northern and westerly edges of Campobello Island” (p. 62), and several other areas.

The SDEIS concludes that, “As LNG carriers proceed along the indicated track line, Zone 1, the potential area with the most severe impact would not affect any high population area or public or government centers such as school, hospitals or transportation infrastructure.” (p. 62)

This information raises two questions for me. First, if there is no need, how is assuming *any* additional health and safety related risk, even minimal risk, justified? It seems to me that the type of analysis performed here only makes sense in cases where there is a compelling reason to assume added risk. I see none here.

S-IND2-2

Second, there appears to be an underlying value set reflected in this analysis and its conclusion. That is, if the numbers of people killed and/or injured is less than in more populated U.S. areas where there may be more services (such as hospitals and schools), then it is more acceptable to put them at risk. I fundamentally reject that premise especially where placing people at increased risk is completely optional. A rural or small town life is no less valuable than an urban life. A Canadian life is no less valuable than the life of someone living in the U.S. It appears that Canada is being asked to put their lands and people at additional risk with no identifiable benefit.

S-IND2-3

Paradoxically, a theoretical argument (and one I am not advocating) could be made that increased risk in mass casualty situations is better born by more populated areas having greater resources. One would need only to look at the recent terrorist attacks in Boston to make the point. There is no question that many lives were saved and fewer injuries will result in long-term disability as a result of massive rapidly accessible and specialized medical resources. Boston has 5 adult and 3 pediatric Level I trauma centers. Not one person who arrived at a hospital in Boston subsequently died¹. In the area of this proposed LNG facility, the closest Level I trauma center (and Maine’s only burn beds) is in Portland, ME approximately 250 miles away. The closest Level II trauma center is located far away in Bangor. The closest U.S. hospitals (Calais and Machias) are tiny facilities with very limited beds and emergency capacity.

Health Aspects of National Security

While I am seldom surprised, I am always disappointed to see the components of the Federal government working at cross purposes. There is growing recognition that health is a national security issue. National Health Security Strategy (NHSS) (DHHS, 2009), describes why protecting and promoting the nation’s health is central to national security. The NHSS lays out 10 strategies for government agencies and departments and others to pursue to enhance national security. Of particular relevance to this discussion is Strategy #9, *Cross-Border and Global Partnerships*. In a world that increasingly globalized there is a growing need for countries to work together to mitigate numerous threats to the

¹ Walls, RM, Zinner, MJ, *The Boston Marathon Response: Why Did It Work So Well?*, JAMA, published online April 30, 2013

S-IND2-2 The project’s need will be considered by the Commission in its determination whether or not to authorize the project.

S-IND2-3 The analysis and conclusion in the EIS does not reflect the suggested value set. Our analysis does not assign different values for a rural, urban, or Canadian life.

S-IND2

3

public's health. The NHSS identifies many areas of international cooperation and collaboration as the health security of all nations is interdependent. Canada is the strongest ally of the U.S., we share our longest border, and they are key partners in assuring health security.

Why raise this issue here? For health and safety reasons, the government of Canada at *all* levels, through *all* of its components, since before the DeLNG proposal was even thought of, has stated unequivocally that they *will not allow* LNG shipping through Head Harbour Passage. Period. The position of Canada is far more emphatic than one would conclude from reading this document. To essentially reduce the importance of their position on this matter to a mere footnote and to characterize their position as "comments" (p.63) is both arrogant and disrespectful. This failure to properly acknowledge and address the position held by the governments of Canada by FERC, as well as DeLNG, strains the relationship, impedes the implementation of the NHSS, and therefore compromises national health security.

S-IND2-4

That said, there do appear to be parts of the SDEIS that seem to require that require DeLNG work with Canada in several areas such as Emergency Response and Evacuation Planning (including cost sharing) *prior to initial site preparation*. In addition, the SDEIS mentions numerous waterway safety factors that would appear to require Canada's involvement and cooperation but these seem to be required at the last stage in the process *before commencement of service*.

Fundamentally, DeLNG should not be allowed to proceed to the approval stage, or at minimum not begin site preparation, until it can demonstrate that it has overcome Canada's clear prohibition. It is in U.S. national interest that FERC become more supportive of the nation's NHSS by ceasing to trivialize Canada's position. On the project front, I am concerned that the LNG import facility could theoretically be constructed before being required to face the reality of Canada's position.

To provide some context for my remarks, I am a former Rear Admiral/Assistant Surgeon General in the United States Public Health Service. Much of my career has been spent in preparation for, and response to, natural and human caused emergencies and disasters. My most recent work involves helping hospitals and other healthcare organizations prepare for and respond to extreme events. I have been directly involved in the response to countless natural disasters and many human caused events. I know first-hand, the terrible physical, psychological, and community pain and suffering that invariably results from natural, accidental, and intentional disasters. I am a committed advocate for the protection of the public's health.

Sincerely,



Brian W. Flynn, Ed.D.

S-IND2-4 See response to comment S-CO10-1. Section 1.5 of the EIS describes correspondence with the Canadian Government and agencies.

20130513-5054 FERC PDF (Unofficial) 5/13/2013 1:02:49 AM

S-IND3

May 09, 2013

TO: Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

RE: OEP/DG2E/Gas 1
Downeast LNG, Inc.
Downeast Pipeline, LLC
Docket Nos. CP07-52-000
CP07-53-000, CP07-53-001

Dear Kimberly D. Bose:

Thank you for the opportunity to express our views and frustrations of the proposed DELNG pier, terminal, and pipeline located on Passamaquoddy Bay in Robbinston, Maine. This letter is in response to FERC's draft EIS for DELNG.

Since its first inception in 2005, it has been a constant battle to try to get an answer to one simple question....why was this beautiful place even suggested to put in such an industrial and potentially dangerous operation...when in fact the Coast of Maine is 3,478 miles long...much of it uninhabitedout of harm's way ...and not to interfere with those homes & lives of residents who will be in hazard zone 1, many more in hazard zones 2 & 3, and the whole Bay compromised as a result of poor planning?

Please find enclosed photos of homes along the water's edge just fronting where the proposed tanker would be docked at a pier longer than 4000' feet.

S-IND3-1

Hazard Zone 1 properties & homes are within ¼ to less than ½ mile from where the LNG tanker would dock & off load the LNG product. Our Constitution states we have the right to Life, Liberty and the pursuit of Happiness....we see this as being violated by the sheer unmitigated nerve of DELNG and its supporters. Where, in the larger scheme of things, has any thought or direction for those home dwellers been given?

We know and realize that natural gas is on America's list of energy usefulness, and we also know and realize the need for USA to become independent upon imported gas and oil. From reading what the experts tell us there is NO NEED for a LNG terminal at the DELNG location. We also look to the Safety Factor for both human life and marine life that would be in harm's way of such an operation.

Maine, "The Way Life Should Be".. Maine SHOULD NOT be Dumped On, with this heavy industrial , no-need, project in Washington County.

S-IND3-1 See response to comments S-IND2-1 and S-IND 2-2.

S-IND3

(2)

We urge the FERC and all Maine Agencies involved to disallow this DELNG operation in it's entirety.

Thank you very much.

Respectfully submitted,

	Signed:	Dated:
Richard E. Berry:	<u>Richard E. Berry</u>	<u>05/09/13</u>
Katherine A. Berry:	<u>Katherine A. Berry</u>	<u>May 09, 2013</u>
Paul Crawford:	<u>Paul Crawford</u>	
Suzanne Crawford:	<u>Suzanne Crawford</u>	<u>May 9, 2013</u>

CC: file

US Senator Susan Collins	via mail Bangor office
US Senator Angus King	via mail Bangor office
Representative Michaud	http://www.michaud.house.gov
" Pingree	http://www.pingree.house.gov

**S-IND3 Richard and Katherine Berry, and Paul and Suzanne Crawford
(continued)**

S-IND4 Carl and Heather Ross

20130515-0020 FERC PDF (Unofficial) 05/15/2013

S-IND4

ORIGINAL

9 May 2013

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room 1A
Washington, DC 20426

2013 May 15
2013 MAY 15 10:07
RECEIVED

Dear Ms Bose:

We are writing to provide our feelings regarding the proposed Supplemental Draft Environmental Impact Statement (SDEIS) for the Downeast LNG Project. Reference: Docket Numbers CP07-52-000, CP07-53-000 and CP07-53-001.

Our concerns lie with the health risk to humans. We live approximately 10 miles away from the proposed terminal and feel the risks outnumber the positive features of the proposal. If the terminal should explode or be damaged with incoming containers, the possibility of a major disaster would be catastrophic especially to the small town of Robbinston and the neighboring Canadian town of St Andrews.

S-IND4-1

We do not feel there is a current need for this gas supply in Maine. The plans for a proposed LNG terminal in Red Beach/Calais and the one proposed near Eastport have both come to an end; we hope the Federal Energy Regulatory Commission will also terminate the Downeast LNG proposal.

S-IND4-2

Thank you,

Carl & Heather Ross
Carl and Heather Ross
1449 River Road
Calais, Maine 04619
207-454-7194

hmrccer@roadrunner.com

S-IND4-1 See response to comments S-IND2-1 and S-IND 2-2.

S-IND4-2 The project's need will be considered by the Commission in its determination whether or not to authorize the project. The market ultimately will determine the viability of the proposed project.

Sarah & Paul Strickland
@ the Farmhouse
Robbinston, Maine

May 17, 2013

Kimberly Bose
FERC
888 First Street NE
Washington DC

Re: Downeast LNG Docket No. CP07-52-000, CP07-53-000, CP07-53-001

Dear Secretary Bose,

We are writing in opposition to the proposed LNG terminal facility to be located on Mill Cove in Robbinston, Maine. The two issues this letter speaks to are the requirements related to Hazard Zones, Exclusion Zones and the Shelter in Place program that will inalterably change the lives, culture, economic well-being, health, and safety of Robbinston residents, and place a permanent scar on who we are, and want to become, as a community.

Hazard Zone & Exclusion Zone

The Hazard Zone and the Exclusion Zone for this project include the LNG terminal property, the proposed 30-foot-high vapor barrier and the dock for the tankers. Within the known Hazard Zone and the Exclusion Zone the following list of requirements are likely to be mandatory given the location of the terminal and the dock, and impact the entire Robbinston community:

- Search lights all along the transit route
- Siren systems
- Helicopter monitoring services
- Underwater divers near the piers
- Gun boats escorting the ship
- Police and emergency service people driving along the shoreline as the ship transits
- Shelter in Place programs in operation for nearby schools and homes
- Other community shelters available on standby

This list of requirements paints a striking contrast to what is now a unspoiled, tidal estuary and coastline where generations of residents, visitors and wildlife have walked, worked and played, and where future generations would do the same, if FERC denies Downeast LNG's permit application.

Consider the permanent changes in our ability to be a community that thrives versus one that lives in uncertainty and fear:

- The unacceptable high consequence of life threatening events for homeowners, and children at Robbinston Elementary School that would contribute to a steady decline in families wanting to move to Robbinston.

S-IND5

Sarah & Paul Strickland
@ the Farmhouse
Robbinston, Maine

- Using valuable school and teacher time to establish Shelter in Place programs in our school to train – and frighten - children to duct tape windows and doors and promising them that this would help them survive an LNG disaster less than a mile down the road.
- The drastic reduction in land value for all properties adjacent and upriver from Mill Cove, many of them multi-generation family assets, because of the drastic changes in environmental conditions and tourism appeal.
- The elimination of a vibrant, resource rich cove as a future asset-based economic development opportunity using the natural resources already available.
- The reduction of nighttime sky across the Bay and up the coast.
- The increased noise pollution and changes in air and water quality negatively impacting many existing human economic activities that rely on the natural resources of the cove, river and bay.

Each of these changes permanently undermines the Town of Robbinston's value and attractiveness as a place to live, work, visit, own property, and raise a family because people would simply not want to live in a community that is defined by an Hazard Zone, an Exclusion Zone, a 30-foot-high vapor barrier and the unprecedented risk of a life threatening event harming their family. Without new people choosing Robbinston as their home, and current residents leaving, our community would cease to exist over time. This, in addition to the fact that their already exists decades of available natural gas for Maine and New England, means that Downeast LNG has no viable purpose in Robbinston, Maine now or in the future.

S-IND5-1

The people in Robbinston, Maine are here because of their inherent love for this place – in spite of the challenges of living in a rural community. They are rugged individuals who believe in family, hard work, lending a hand and protecting their way of life in Downeast Maine. My great-grandparents, grandparents, parents and now my husband and I have been part of this community, the river and the bay since the late 1800's. Each of us over the decades have grown-up and been shaped by this special and unique part of the coast.

If the beauty and magnificence of the coastline is taken away by an LNG terminal being built in the heart of our community, it would destroy the very thing that sustains us the most and makes us uniquely who we are. It would slowly tear apart the fabric that binds us together as a community and nurtures who we are as a people.

The LNG scar, on the coastline and on our human hearts, would be felt for many generations to come and steal away our ability and desire to thrive. This is a tragedy that does not need to happen.

Thank you for your consideration.

Sarah and Paul Strickland
32 US Route 1
Robbinston, Maine 04671

S-IND5 Sarah and Paul Strickland (continued)

S-IND5-1 We recognize that some residents of Robbinston have numerous concerns related to risks associated with the LNG project, and the defined hazard and exclusion zones.

S-IND6

Bay of Fundy Short Listed for 7 Natural Wonders of the World

The Bay of Fundy caught the attention of the world last year, when it made the short list for the “7 Natural Wonders of the World” competition. Initially there were over 440 locations nominated. They represented over 220 countries. Hundreds of millions of votes were cast. **The Bay of Fundy was one of only two locations in North America make the short list. The Grand Canyon was the other.**

The Bay was seen as outstanding in many ways. It has the highest tidal range in the world. Each day 150 billion tons of water flows in and out of the Bay. That’s enough to fill and empty the Grand Canyon, and more than the flow of all the worlds’ rivers combined.

While massive tides may be the Bays most well known characteristic, they are only a small part of the Bays unique and wondrous environment. The tides create a marine oasis of international significance. Passamaquoddy Bay acts as Fundy’s vast nutrient pump supporting the biodiversity of the Gulf of Maine and the Atlantic Ocean. Passamaquoddy has created one of the richest marine habitats on earth.

Eight species of whales, including the endangered Northern Right Whale come to Passamaquoddy Bay each year to take advantage the rich nutrient soup unique to the area. Because of the available food and protection offered, it’s the preferred location for whales to give birth. Seals, dolphins, porpoise, 17 species of sharks and at 25 species of fish and shellfish also make their home in Passamaquoddy.

Over 360 species of birds have been recorded here, including endangered species such as the peregrine falcon and the piping plover. The bald eagle, once near extinction, has made a remarkable come back in the area. Thousands of shorebirds, including 3000 pairs of Arctic terns, 400-500 pairs of nesting razorbills and 1300 pairs of nesting Atlantic Puffins spend all or part of the year around the Bay. Up to two million sandpipers and other shorebirds make the Bay the primary stopover during their annual migration from the arctic tundra to the coast of South America.

The Bay of Fundy offers a chance to experience true solitude in an area that has little or no industrial development, an opportunity to see the night sky unimpeded. Its breathtaking beauty is evident in bright sunshine, darkest night, swirling fog, and terrible storms.

The world has recognized that few places on Earth are as awe-inspiring as Passamaquoddy Bay and the Bay of Fundy. Taking chances with it or changing it’s essential nature would unforgivable.

S-IND6-1

S-IND6-1 The potential impacts on Passamaquoddy Bay, including wildlife, visual resources, and communities and businesses, are addressed in the EIS.

RADM BRIAN W. FLYNN, Ed.D.
ASSISTANT SURGEON GENERAL (USPHS, RET.)
516 POINT FIELD DRIVE
MILLERSVILLE, MARYLAND 21108
410-353-4768

S-IND7

August 2, 2013

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room 1A
Washington, DC 20426

Ref: OEP/DG2E/Gas I
Downeast LNG, Inc.
Downeast Pipeline, LLC
Docket Nos. CP07-52-000, CP07-53-000, CP07-53-001

Dear Ms Bose:

I am writing to follow up on my letter to you of May 6, 2013. In that letter, I asked you to clarify a very specific question.

I wrote with respect to the Supplemental Draft Environmental Impact Statement for the Downeast LNG Project: "With respect to need, according to the document, FERC is to make its decisions based on several factors including "...market demand, gas supply..." (p. 2)...Question: At what point and in what document will FERC determine how this proposal relates to current need and supply?"

S-IND7-1

Nearly three months has now passed since that letter and I have yet to receive a response from your office. The courtesy of a prompt and substantive reply would be greatly appreciated.

Sincerely,



Brian W. Flynn, Ed.D.

S-IND8 Brian W. Flynn

S-IND7-1 The project's need will be considered by the Commission in its determination whether or not to authorize the project and addressed in its Order. The market ultimately will determine the viability of the proposed project. The Commission staff response to your May 6, 2013 letter is included above under S-IND2-1.

S-IND8

Ronald S. Rosenfeld, M.D.P.O. Box 208
281 Birch Point Road
Perry, ME 04667

October 1, 2013

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, DC 20426RE: Downeast LNG, Inc. Docket No. CP07-52-000
CP07-53-000
CP07-53-001

Dear Ms. Bose:

The FERC has yet to address the issue of heavy-metal toxins, including mercury, that are known to be in the sediment of the St. Croix river in the vicinity of the Downeast LNG proposed import facility. This was brought to your attention in filings from Sep 2012, but has yet to be addressed.

S-IND8-1

To summarize, multiple studies, including several done by or in cooperation with the EPA have demonstrated the presence of multiple kinds of heavy metals in the sediments. This contamination was felt to be mainly a consequence of point source contamination, especially from paper mills, but non-point source contamination from runoff, power plant emissions, and other sources has also been a factor over the years.

Although a current study has shown that the water itself is much improved from its condition in the 1970's, there has been no assessment as to the impact of construction of the planned 4,000 ft pier. It seems likely that this construction would redistribute into the water whatever toxins are present in the underlying sediment.

Mercury and other heavy metals have been shown to be present in the sediment in the watershed.¹⁻³

The FERC's attention to this matter would seem to be a required part of the permitting process.

Sincerely,

Ronald S. Rosenfeld, M.D.

¹ "St. Croix River: State of the Watershed Report", International St. Croix River Watershed Board, International Joint Commission, Canada and United States; 2008, p 41

² L. K. Fink, Jr., D. M. Pope, A. B. Harris, L. L. Schick, "Heavy Metal Levels In Suspended Particulates, Biota, And Sediments Of The St. Croix Estuary In Maine." November, 1976

³ Elsie M. Sunderland, et. al. " Speciation and bioavailability of mercury in well-mixed estuarine sediments.", Marine Chemistry 90 (2004) 91– 105

S-IND8 Ronald S. Rosenfeld

S-IND8-1 Section 4.2.8 of the EIS addresses the potential for toxins, including mercury, to occur in the sediments at the terminal site and the likelihood of re-suspension from the proposed construction and operation. We believe there would be no adverse impacts from re-suspension of sediments during pier construction.

S-IND9

Ronald S. Rosenfeld, M.D.

P.O. Box 208
281 Birch Point Road
Perry, ME 04667

January 30, 2014

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, DC 20426

RE: Downeast LNG, Inc. Docket No. CP07-52-000
CP07-53-000
CP07-53-001

Dear Ms. Bose:

On January 30, 2014 FERC published a filing¹ from Downeast LNG ("DELNG") in which DELNG claimed that an entire submission of information that they had made to the Pipeline and Hazardous Materials Safety Administration ("PHMSA") should be afforded confidential and proprietary treatment.

DELNG has a history of requesting this treatment for information which did not meet the standard for its application, and which was subsequently released.

While some of the information in this submission might be considered proprietary, it is unlikely that the entire submission meets that standard. In particular, withholding of information concerning items such as design spill flow rates, justification for hole size selection, the results of the computations, and so forth, deprives the public of the opportunity to develop an opinion as to the appropriateness of the parameters selected by DELNG, and the applicability and accuracy of their calculations.

I request that the FERC staff carefully review the submission and immediately reclassify as public all parts of the submission that do not clearly meet the standard of being afforded confidential and proprietary treatment.

Sincerely,



Ronald S. Rosenfeld, M.D.

S-IND9-1

S-IND9 Ronald S. Rosenfeld

S-IND9-1 See response to S-NA46-1.

¹ http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20140130-5364